NOMINATIONS

HEARING

BEFORE THE

COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

WILLIAM ARTHUR WEBB, OF PENNSYLVANIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

AND

HARRY M. SINGLETON, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION;

LAWRENCE F. DAVENPORT, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION;

GARY L. BAUER, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY FOR PLANNING AND BUDGET, DEPARTMENT OF EDUCATION; AND

CHARLES L. HEATHERLY, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION

SEPTEMBER 22, 1982

Printed for the use of the Committee on Labor and Human Resources

U.S. GOVERNMENT PRINTING OFFICE

11-834 O WASHINGTON : 1982

5541-9

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NOMINATIONS

WEDNESDAY, SEPTEMBER 22, 1982

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 4232, Dirksen Senate Office Building, Senator Orrin Hatch (chairman of the committee) presiding.

Present: Senator Hatch.

OPENING STATEMENT OF SENATOR HATCH

The CHAIRMAN. We are pleased this morning to welcome a distinguished group of Presidential nominees to important positions in the Government.

I apologize for being late, but I just could not do anything about it. I was here last night until quite late on the railroad strike. We hope there will be a resolution of that today. I think we are well on our way to resolving the strike which could cost this economy $1 billion a day and 1 million lost jobs within the next 4 weeks.

Our agenda today will begin with Mr. William Webb, a member designate of the Equal Employment Opportunity Commission. Mr. Webb will be followed by a panel composed of Mr. Harry Singleton, Dr. Lawrence Davenport, Mr. Gary Bauer, and Mr. Charles Heatherly, all nominated to positions in the Department of Education.

After the panel, we have scheduled a committee vote on the nomination of Mr. Gary L. Jones to be Under Secretary of Education.

We will consider first the nomination of William A. Webb to be a member of the Equal Employment Opportunity Commission, the agency that Congress established to investigate and remedy employment discrimination in this country. It has become very clear that the new leadership of the Commission under the guidance of Commissioner Clarence Thomas is committed to the concept of equal employment opportunity and has begun to take the necessary steps to insure that the Commission itself is capable of making this concept a reality. Anyone who is committed to the principles of title VII and the other Federal statutes prohibiting discrimination recognizes that an efficient, well-managed Commission is a prerequisite to equitable Federal enforcement.

I believe that despite the numerous allegations concerning this administration's commitment to equal employment opportunity, which one sees constantly in the press, the commissioners who have been nominated by President Reagan and confirmed by the

Senate represent some of the best appointments to the EEOC in its history. Clarence Thomas, Cathy Shaddock, and Tony Gallegos are all experienced lawyers or administrators who bring both skill and dedication to the Commission. Their combined performance to date evidences the very leadership that the EEOC desperately needs to ensure that it is an equitable, yet effective, enforcement agency.

I might add that our hearings have shown that there was a need for change at the Commission, that the agency needed to be tightened up and do a better job in getting actual jobs for people rather than just creating more paperwork for businesses throughout this country.

The nomination of William A. Webb is further indication of the administration's commitment to the Commission and the enforcement of our employment discrimination statutes.

At this point we are very happy to have the distinguished Senators from Pennsylvania, senior Senator John Heinz and the junior Senator, Arlen Specter.

I want to personally welcome both of you to our committee. I apologize for your having to wait. I know your schedules are extremely busy, and we are happy to have you here.

STATEMENT OF HON. JOHN HEINZ, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator HEINZ. Mr. Chairman, thank you very much. Let me at the outset commend you on the work that you have done to end the economic confusion and mess that the railroad strike would entail for this country. We know how hard you were working all day yesterday, how late last night, and how early this morning you have been working to do that.

I can say that I know why you were late in case anybody else did not know. I do commend you for your excellent work.

The CHAIRMAN. Thank you, Senator.

Senator HEINZ. Mr. Chairman and members of the committee, I am, indeed, very, very pleased to appear here with my colleague, Senator Specter, to introduce Mr. William Webb, the administration's nominee for the position of Commissioner of the Equal Employment Opportunity Commission.

At the outset, let me express my wholehearted support for Bill Webb's nomination. Bill has a broad and extensive background of success and leadership, ranging from his professional responsibilities to his civic activities. I will not detail them all, but when you recognize that Bill Webb currently serves as deputy attorney general for the Commonwealth of Pennsylvania, when you recognize his service as assistant U.S. attorney in the western district, and other important law enforcement positions, I think that a careful examination of his record will demonstrate that in both positions I have mentioned as well as others he has discharged wide-ranging and often difficult law enforcement responsibilities both conscientiously and effectively.

Bill Webb also serves as the director of the Pittsburgh Urban League, the same position I used to hold prior to coming here to Washington, D.C., I know firsthand as well as from all my former

colleagues on that board that Bill Webb has shown a tireless devotion to the cause of social justice for all Americans.

He has been the director of another program, a program to aid citizen enterprise, where he sought to further economic development among the disadvantaged members of our society.

He is familiar with how Congress works. He served 1 year as senior staff counsel to the U.S. House of Representatives Committee on Assassinations.

I have no reservation, Mr. Chairman, about Bill Webb's knowledge of law enforcement. It is outstanding. His civil rights activities are a matter of record. His congressional experience, you can check on the other side of the Capitol. He has every possible qualification necessary to perform an outstanding job as a member of the Equal Employment Opportunity Commission.

I might sum up by saying that professionally Bill Webb has served the cause of justice with dignity and distinction. He has served the community as a private citizen with commitment and compassion.

Mr. Chairman, I am proud to wholeheartedly support and unreservedly endorse President Reagan's nomination of Bill Webb. I urge the committee to act expeditiously on his confirmation.

I am sure he will serve the Nation just as well as he has served in my home State of Pennsylvania.

The CHAIRMAN. Thank you, Senator.

Senator Specter.

STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Mr. SPECTER. I am delighted to be here this morning, Mr. Chairman, and join my colleague, Senator Heinz, in commending you for your work yesterday. I could elaborate, as I did Monday evening at a fundraiser, on other work that you have done and the contribution to the U.S. Senate. However, I shall move to the business at hand.

I have had the pleasure of seconding Senator Heinz' words of introduction on a number of occasions in the past 1 year and 9 months. As usual, there really is nothing more for me to say.

The CHAIRMAN. He did cover it pretty well, didn't he?

Senator HEINZ. Mr. Chairman, I think the record will shed a small amount of doubt on my colleague's last statement.

Senator SPECTER. Notwithstanding the fact that there is nothing more for me to say, I shall say something in any event.

The CHAIRMAN. I figured being a U. S. Senator you would not let us down.

Senator SPECTER. In accordance with the traditions of the institution, I suppose if there were any real grounds for ouster, it would be silence. I would not want to run that risk.

Suffice it, for my contribution to this introduction, to say that I concur that the issue of equal employment opportunity is the key factor for the advancement of minority groups. If there is to be equality in this country, and it is a long road, beyond education the factor is employment opportunities. It requires vigilance, it requires dedication, and it requires perseverance.

The qualities of William Arthur Webb which I find most encouraging turn on his experience as an investigator. That skill really is indispensable in doing the job as commissioner on the Equal Employment Opportunity Commission.

I was impressed with his being summa cum laude from the University of New Haven and from his background as a lawyer, which is very distinguished, indeed.

I think it is worth noting that on a panel established by Senator Heinz and myself that Mr. Webb was recommended for the position of U.S. attorney for the Western District of Pennsylvania and was a close competitor for that very lofty, important position.

I believe that Bill Webb has an outstanding career ahead of him. This is a wonderful opportunity for him and a wonderful opportunity for the U.S. Government to have his services on this important commission.

The CHAIRMAN. Thank you, Senator Specter.

Mr. Webb, you certainly come well recommended. Both of these Senators mean a great deal to me. I really respect what they have had to say about you. Having lived in Pittsburgh for many years, I can appreciate the toughening that you get in the normal process right around Pittsburgh, especially in the field of law. We are very happy to have you with us.

We would allow you two Senators to leave if you need to do so. We know you are very busy, and I have kept you too long as it is.

Senator SPECTER. Mr. Chairman, I would add one word about a person who will soon appear here. That is Mr. Harry Singleton. I do so because he is from Meadville, Pa. He has been in Washington for the past 8 years, but I do think it is appropriate to say just a word about this outstanding young man.

The CHAIRMAN. It is appropriate. Go ahead.

Senator SPECTER. He may think he is not a Pennsylvanian because he has been in Washington, D.C., for 8 years, but Pennsylvania regards him as a Pennsylvanian, especially at this moment of distinction and prominence.

He is a graduate of the Yale Law School, an institution which I hold very dear to my heart. I do not know if the voters of Pennsylvania know, but both Senator Heinz and I have connections with Yale. Probably if they did know, one of us would not have been successful.

I just wanted to say that word about this outstanding young man who will be coming forward with the next panel.

The CHAIRMAN. Thank you, Senator Specter.

Thank you, Senator Heinz.

Mr. Webb, we will be happy to hear from you at this time.

STATEMENT OF WILLIAM A. WEBB, NOMINATED TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. WEBB. Thank you, Mr. Chairman.

I would like to first express my gratitude for your expeditious consideration of my nomination. I do have a prepared statement which I would like to read.

Mr. Chairman, I am honored by the President's decision to nominate me to become a member of the Equal Employment Opportunity Commission, and I am pleased to be afforded this opportunity to appear before this committee to seek your approval of that nomination.

Since its creation by the Civil Rights Act of 1964, the EEOC has been in the forefront of the fight to end discrimination in the American workplace. Today the Commission is responsible for enforcing title VII of the Civil Rights Act, the Equal Pay Act, the Age Discrimination in Employment Act, and section 501 of the Rehabilitation Act of 1973.

In addition, and of equal importance, is the Commission's mandate to provide leadership and coordination of the efforts of all Federal departments and agencies having enforcement responsibilities for equal employment laws, Executive orders, regulations, and policies.

If confirmed, I pledge to support the vigorous enforcement of these laws, which has been the hallmark of the Commission.

As a black person, I have experienced discrimination; I know the debilitating effect it can have; and I have spent a large part of my personal and professional life fighting it. This awareness and sensitivity will assure my continued diligence as a commissioner in the fight to eliminate employment discrimination whether it is against minorities, women, our senior citizens, or those who are handicapped.

As an attorney, I have been taught to recognize those activities and practices which violate the law, including those which deny people their right to compete on an equal basis in the job market. This training, combined with my professional legal experience, will enable me to work effectively with the other members of the commission to eradicate the last vestiges of unlawful discriminatory employment practices.

As an American, I believe in this country's commitment to achieve equal opportunity for all persons. While I am proud of the progress we have made toward eliminating discrimination, I recognize that we still have a distance to go to reach this goal.

As a commissioner, I will exercise firmness and fairness in seeing to it that all employers live up to those high ideals and principles embodied in our Constitution by requiring that they obey the law. This is because I believe that these goals can be accomplished best by strict adherence to the laws enacted by the Congress.

Finally, as you know, on August 17, 1982, the Commission unanimously approved a plan to reorganize its headquarters offices. I have studied this plan and have discussed it with Chairman Thomas. I believe that it, together with the chairman's efforts to involve the commissioners more fully in all aspects of the Commission's work, will promote the effective and efficient operation of the Commission—a concern which I know is shared by this committee.

Thank you for your consideration of my nomination. I shall be happy to answer any questions you may have.

The CHAIRMAN. Thank you, Mr. Webb.

I am going to submit questions to you. I would like you to answer them and get them right back to us. I have only five I would like to

submit. We shall keep the record open for any Senator on this committee to submit questions in writing to you before 6 o'clock today.

[The biographical sketch of Mr. Webb and questions with responses follow:]

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: Webb (LAST) William (FIRST) Arthur (OTHER)

Position to which nominated: Commissioner, EEOC Date of nomination:

Date of birth: 22 (DAY) 10 (MONTH) 43 (YEAR) Place of birth: New Haven, Connecticut

Marital status: Married Full name of spouse: Willi L. Webb

Name and ages of children: Charles W. 29 months

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Clark University	1961-1962		
Lincoln University	1962-1963		
University of New Haven	1969-1971	BS	1971
University of Connecticut School of Law	1971-1974	JD	1974

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Alpha Chi - National Honor Society

Good Conduct Medal, National Defense

Service Medal, Vietnam Service Medal w/2 BSS

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
Allegheny County Bar Association		1980-1982
Homer S. Brown Law Association	President	1974-1982
AMEN Corner		1977-1982
Pittsburgh Urban League	Director	1980-1982
Prince Hall Masons	Grand Attorney	1974-1982
Program to Aid Citizen Enterprise	Director	1980-1982
Hill House Association	Director	1980-1982

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

3/80 - Present	Deputy Attorney General Commonwealth of PA, Pittsburgh, PA
3/79 - 3/80	Assistant U.S. Attorney Department of Justice, Pittsburgh, PA
1/79 - 3/79	Unemployed
10/77 -12/78	Senior Staff Counsel U.S. House of Rep. Assassination Committee, Washington, DC
8/75 - 9/77	Associate, Freeland & Kronz Attorneys at Law, Pittsburgh, PA
3/75 - 9/77	Assistant District Attorney Allegheny County D.A.'s Office, Pittsburgh, PA
5/74 - 3/75	Program Analyst, Governor's Council Drug & Alcohol Abuse, Pittsburgh, PA
9/72 - 5/74	Intern, Connecticut NAACP, Hartford, Connecticut
Summer 1969 - 1971	Summer Student, United Newhallville Organization, New Haven, Connecticut
2/67 - 5/69	Communications Consultant, Southern N.E. Tel., New Haven, Connecticut
12/66 - 2/67	Unemployed
5/63 - 11/67	Intelligence Specialist, U.S. Air Force

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

NONE

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

NONE

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

Deputy General Counsel
1982 National Black Republican Council - Executive Board

1980 Zimmerman for Attorney General ($100.00)

1980 Regan-Bush Campaign-Western PA Black vote coordinator

1980 Committee to Elect Horgos ($20.00)

1979 Bush Reception ($10.00)

1979 Bush Breakfast ($30.00)

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Page 2 - Memberships (continued):

Community Release Agency	Director	1980-1982
Community Action Pittsburgh	Director	1980-1982
The F.R.O.G.S.		1980-1982

Page 3 - Political Affiliations and Activities (continued):

1979 Scarlatta for District Attorney ($50.00)

1977 Carson for Council ($145.00)

1977 Friedman for County Clerk ($25.00)

1977 Allegheny County Republican Committee ($75.00)

1977 Carson for Council Campaign Volunteer

1976-1977 Republican Committeeman Penn Hills, PA

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

YES

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

NO

3. Has a commitment been made to you for employment after you leave Federal service?

NO

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

YES

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

NONE

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

NONE

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

NONE

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

NONE

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

I will consult the ethics in government expert at EEOC and the Department of Justice and will not participate by vote or attempts to influence in any matters in which past clients or parties to litigation in which I participated have a direct interest.

September 23, 1982

Honorable Orrin G. Hatch
Chairman
Senate Labor and Human Resources
Committee
United States Senate
Washington, D.C. 20510

Dear Chairman Hatch:

Once again thank you for the expeditious treatment of my nomination to be a member of the Equal Employment Opportunity Commission.

I have enclosed answers to the written questions which you posed together with a copy of my responses to Senator Kennedy's questions which I sent directly to him.

Very truly yours,

William A. Webb

Enclosures

QUESTIONS FOR WILLIAM WEBB

1.Q What do you perceive to be the role of the Commission as mandated by Congress and more specifically, what do you perceive to be the role of a Commissioner?

A In my view, it is the Commission's role as a collegial body to ensure equality of opportunity in the workplace by vigorously enforcing the Federal legislation it is entrusted to enforce, through investigation, conciliation, and where necessary, litigation. It is also the role of the Commission to provide technical assistance and guidance to employers and labor organizations in order to ensure that the statutory policies are understood and implemented in a fair and impartial manner. The Commission also has the responsibility for adopting good administrative procedures and techniques to ensure proper management and expenditure of public funds. My role as a member of the Commission will be to clearly articulate the policies to the public and make the achievement of these goals a reality, so as to improve upon the Commission's credibility and effectiveness.

2.Q There has been much public debate recently concerning the appropriate use of affirmative action in judicial and regulatory settings, a debate for which I am partially responsible. One of the benefits of this discussion is the attention that has been drawn on the myriad ways in which affirmative action is being used today by the courts, Federal agencies and the Federal government. Based upon your understanding of the law, what is the proper use of affirmative action in suits arising under Title VII and the other Federal statutes for which you will be responsible as a Commissioner?

A Based upon my understanding of the law, upon a finding of discrimination by a court, affirmative action might constitute appropriate relief. In this context, affirmative action could include training, recruitment, elimination of existing discriminatory employment practices and the removal of other barriers to equality of opportunity.

I also believe that the use of temporary goals and timetables is appropriate for they provide criteria by which to guage progress.

While I do not generally favor the use of quotas, I believe that they must be available as a remedy of last resort to be employed by the courts on a temporary basis under appropriate circumstances.

3.Q In the past, there has been much confusion over the Commission's use of guidelines as a means for exploring issues arguably beyond the scope of Title VII or for circumventing allegedly adverse judicial opinions and legislative history. As a Commissioner, what sort of limitations will you try to place upon the regulations promulgated by the EEOC?

A I believe the Commission's guidelines (which do not have the force and effect of law) must have a firm basis in legislation, as supported and amplified by the legislative history, and available judicial precedent. A significant purpose of the guidelines is to educate, inform and stimulate voluntary compliance. As a Commissioner, I intend to make sure that the guidelines have this firm basis and are not the product of administrative overreach.

4.Q Previous Commissioners have used Commissioner Charges as a means for justifying wide ranging and seemingly never ending fishing expeditions, even where there has been no filing of an actual, individual or class complaint. Do you believe that Commissioner Charges should be used in this fashion?

A Generally, the Commission should respond to complaints it receives from persons who allege discrimination in employment. I recognize that Title VII provides a mechanism whereby a Commissioner can swear under oath that he has reason to believe that the law has been violated and thereby initiate an investigation.

I believe that this authority should be sparingly exercised. I would not issue a Commissioner Charge unless I was convinced that there was a demonstrable factual basis for the charge, that there were no other charges pending which could serve as the basis for an investigation and that the action was required in the best interest of justice. Thus, Commissioner charges should not be used for the purpose of harassing or intimidating employers or labor organizations.

5.Q Mr. Webb, as a Commissioner, you will also be responsible for the coordination of the numerous Federal programs concerning equal employment opportunity. As you know, this Committee has held several hearings on the Office of Federal Contract Compliance Programs. The hearings led to the issuing of a one hundred page report recommending, among other things, that the EEOC be the principal Federal agency responsible for remedying employment discrimination. What do you believe would be the most efficient and equitable division of authority between the EEOC and the OFCCP.

A Ideally, I believe only one agency, the EEOC, should have the responsibility for administering and enforcing all Federal civil rights statutes and Executive Orders on equal employment opportunity. However, as long as the current division of responsibility between the EEOC and OFCCP exists, I would support actions designed to maximize effort and promote efficiency of operation. In addition, we must continue the effort to eliminate conflict, non-productive competition, duplication of effort, and inconsistent policy positions, thereby promoting the more efficient operation of both programs. I am aware of the Memorandum of Understanding between the two agencies. I would like to give careful thought to this matter to determine what further improvement can be made in this regard. On the basis of my present knowledge of the two programs, I believe the OFCCP's emphasis should be on continuing compliance reviews of Federal contractors and the EEOC should emphasize the orderly and efficient processing of specific charges of discrimination.

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QUESTIONS FOR WILLIAM WEBB, SUBMITTED BY SENATOR EDWARD M. KENNEDY

1.Q Please describe any experience you have which is relevant to your appointment to the EEOC.

A I have had little direct professional experience in the area of equal employment law. However, I have had other professional and personal experiences which are relevant to my appointment to the EEOC.

As a Black who has experienced discrimination, I am committed to its eradication. To this end, I have been a member of various civil rights groups and have personally participated in efforts to eliminate discrimination.

I am an experienced lawyer/investigator and, as a prosecutor, have been responsible for seeing that the law is enforced. In addition, I presently serve in a senior policymaking position where I have helped to shape the manner in which enforcement efforts take place.

2.Q Your disclosure form, submitted to the Committee, included little substantive experience in the area of equal employment opportunity. What specifically have you or will you do to acquaint yourself with this field?

A Since my nomination by the President, I have been devoting a significant amount of time with senior management officials at the EEOC in order to gain a fuller understanding of the policies and programs of the Commission. In addition, prior to my confirmation hearings, I initiated meetings with representatives of the Leadership Conference On Civil Rights, Hispanic Organizations, representatives of women's groups, public interest law firms and various other groups interested in the work of the Commission to solicit their views on a wide variety of issues.

3.Q In recent months, it appears that the Justice Department has significantly encroached on the responsibilities of the EEOC. How will you insure that these encroachments do not continue and that EEOC reestablishes control over these areas of responsibility?

A Executive Order 12067 designates the EEOC as the lead Federal agency for EEO enforcement efforts. As a Commissioner, I would work with the other members of the Commission to ensure that the Commission fulfills this vital role.

4.Q Please describe your position on the use of affirmative action programs -- both where they are voluntarily established by the organization and where they are imposed by the government?

A Where an employer has reason to believe that discrimination may have occurred, voluntary affirmative action is appropriate. This might include training, recruitment, the elimination of existing discriminatory employment practices and the removal of other barriers to equality of opportunity.

The Commission should support and encourage these voluntary efforts to comply with the law. To this end, the Commission has promulgated guidelines to aid employers.

Of course, after a finding of discrimination, affirmative action may most certainly be an appropriate remedy.

5.Q I believe that pay equity is one of the most important issues facing the EEOC. It is a matter of economic necessity for women struggling to support themselves and their families.

a) Are you committed to pay equity?

b) Are you committed to making pay equity one of the top priorities of the EEOC?

c) What other issues should be of top priority to the EEOC?

d) What enforcement efforts will be undertaken by the EEOC to promote pay equity?

e) What guidelines or regulations will be used in this enforcement effort?

f) Are new guidelines or regulations needed?

g) Are the statutory requirements of Title VII and the Equal Pay Act sufficient to permit the EEOC to meet the goal of pay equity?

A a) I firmly believe in equal pay for equal work regardless of a person's sex, race or ethnicity. I am committed to the full enforcement of discrimination laws, including equal pay laws.

b) In my view, the issue of pay inequity which is the result of illegal discrimination should have equal priority among all the discrimination issues that must be vigorously pursued by the Commission.

c) If the Commission is going to expeditiously achieve the goal of equal employment opportunity in this nation, its top priority must be to vigorously enforce the laws entrusted to it. This can be achieved only by the most efficient management of its current limited staff and financial resources.

d) As a member of the Commission, I will make certain that the Commission vigorously pursues claims of discrimination, including claims of pay disparity based on illegal discrimination.

e) The Commission presently operates under its existing guidelines and regulations. Where there appears to be further need for guidance, I will recommend such technical assistance as may be required.

f) One of my first priorities will be to familiarize myself with all Commission guidelines and regulations and to make a judgment as to their sufficiency. In this effort, I would expect to be guided by the results of staff studies, Commission's deliberations, external input and my understanding of the Commission's mission and the law.

g) I understand that Title VII contains a broad prohibition against discrimination in wages, but that the prohibitions of the Equal Pay Act against sex discrimination in the payment of wages are narrower. This overlap between the two statutes has been the source of some confusion as to whether pay equity between the sexes is as fully covered under Title VII as is the pay equity between races. However, the Supreme Court recently made it clear in County of Washington v. Gunther, 452 U.S. 161 (1981), that Title VII is equally broad in prohibiting discrimination in wages, be it on the basis of sex, race or ethnicity. Without greater information at this time, I believe that the issue of pay inequity caused by unlawful discrimination is capable of being resolved within the framework of existing statutes.

6.Q Would you recommend or support a proposal to reorganize or consolidate the responsibilities for enforcement of civil rights laws between and among the various Federal agencies with current responsibilities?

A I believe that an improved Federal effort would result from greater consolidation of enforcement responsibilities of the civil rights laws. I would, therefore, support any efforts whose effect would be to strengthen enforcement, eliminate waste, duplication and prevent inconsistent policies. I believe, however, that this can be achieved in the end only if proposed in an orderly fashion and sufficient financial and personnel resources are allocated to this effort.

7.Q I understand that Vice-President Bush's task force on regulations has targeted two EEOC guidelines: the first relating to sexual harrassment and the second relating to employment selection. Do you think that these guidelines should be changed in any way? Please describe any such changes and explain the need for these changes.

A I am informed that the Commission staff is preparing a series of options for Commission consideration regarding whether there is a need for a review at this time, and the possible scope of such a review. I will have to study this matter carefully before I can state my views on the need for any changes. However, at this time, I am aware of a recent GAO report that has recommended that the technical sections of the selection guidelines should not be revised by the Commission until after a Joint Committee of the American Psychological Association has issued revised professional standards. This appears to me to be a reasonable recommendation. As to the sexual harrassment guidelines, the Task Force has asked that they should be reviewed to provide adequate guidance to employers as to what constitutes prohibited sexual conduct. In my view, such guidance should be provided, as much as possible, both to promote voluntary compliance and strengthen the Commission's enforcement activity.

8.Q Please describe the approach the EEOC should adopt in its efforts to enforce Title VII, the Equal Pay Act, the Age Discrimination Act [sic], and Section 501 [sic]. Should the EEOC emphasize independent investigations or responses to private complaints?

A The EEOC should vigorously enforce all of the laws within its jurisdiction.

Under Title VII and Section 501 of the Rehabilitation Act, the Commission requires an individual or Commissioner charge before it may act. An investigation under the Age Discrimination in Employment Act and the Equal Pay Act may be initiated with or without a charge having been filed.

Given the vast backlog of charges pending before the Commission, these specific allegations of discrimination should receive priority disposition over initiating independent investigations. There will be times, however, because of the nature of the information which is available that independent investigations may be required.

9.Q The EEOC has undergone significant budget reductions during the last two years. Some observers, including the U.S. Commission on Civil Rights, have claimed that these reductions have damaged the enforcement efforts of the EEOC.

a) Do you agree with this conclusion?

b) Will you recommend or support a higher budget level for the EEOC?

A a) I consider it significant that the EEOC was one of the few Federal agencies which was not reduced by the President's mandated 12 percent reduction in FY 1982. While I am aware that the Commission's budget actually went up in actual dollars from $138.7 million in FY 1981 to $144.7 million in FY 1982, and the administrative budget request for FY 1983 is $144.9 million, I am also cognizant of the erosive effect of recent past inflation on this budget. I am hopeful that the agency will be strengthened in terms of real resources by the current decline in inflation combined with the increased budget level. Further, although it is difficult to assess in advance all the positive effects that the current EEOC reorganization may have on promoting effective use of resources, the expectation is that it will indeed result in strengthened enforcement within the existing budgetary constraints. I am not aware, however, of any published data that demonstrates a significant damage to the Commission's enforcement activity during the past two years.

b) I would support whatever budget level appears necessary to support the vital mission of the Commission.

10.Q Hispanic organizations have expressed concern that recent organizations [sic] have reduced the representation of qualified Hispanics on the EEOC staff. They fear that future reorganizations may have a similar impact.

a) Are any future reorganizations contemplated?

b) What provisions will be taken to ensure that future reorganizations will not lead to a similar result?

A It is my understanding that there have been no workforce reductions occasioned by the recent reorganization at the headquarters offices. Moreover, if anything, there has been an increase in the number of Hispanics hired into the agency over the last few months.

a) I am not aware of any specific future reorganization plans. I have been informed, however, that a task force has been created to study the structure of field operations and will be reporting its findings to the Commission in the near future. It is possible, however, that this task force may recommend some form of reorganization.

b) I am confident that before any personnel reductions would occur, a careful analysis would be made of its effect on all segments of the workforce. Within the EEOC, there is an Office of Equal Employment Opportunity whose function it is to insure that the Commission takes no action which would have a discriminatory effect.

The CHAIRMAN. I personally am very impressed by your credentials and with your background as well as the ability I think you have to add to our Commission. There are some great people on it, and I believe you can add a great deal to that Commission. I personally will be a strong supporter of yours.

We will be happy to try to move on your nomination before this session ends. It is going to be very unlikely, because we have had some difficulty getting our members together for markups. However, let's at least try to do that for you.

Mr. WEBB. Thank you very much.

The CHAIRMAN. Thank you. It is good to have you here.

I want to come back and shake hands with some of you. While I am doing that, let's call up the other nominees for today: Mr. Singleton, Mr. Davenport, Mr. Bauer, and Mr. Heatherly.

We will now hear from four individuals nominated for important positions in the Department of Education. We would like to have your statements introduced into the record. Of course, we invite you to summarize your comments orally in the order indicated. Following the final statement of Mr. Heatherly, we will have some questions of each of you, which will probably be submitted in writing.

First, we will hear from Mr. Harry Singleton, Assistant Secretary-Designate for Civil Rights, Department of Education.

Mr. Singleton brings to the Department a broad range of experience, including positions with private law firms, the House of Representatives, and the Department of Commerce. He is accompanied by the recommendations of the Hon. Stewart B. McKinney and Walter E. Fauntroy, of the House of Representatives.

The Office of Civil Rights performs the function of insuring the equal treatment under law so essential for the progress of a democratic society. I do not doubt Mr. Singleton's devotion to this goal, and I look forward to hearing his comments.

Next we will take the statement of Dr. Lawrence Davenport, nominated to be Assistant Secretary for Elementary and Secondary Education. Holding a doctoral degree in education, Dr. Davenport has administered Federal volunteer programs for ACTION, has taught in the areas of guidance and counseling, among others, and has held responsible positions in education administration at the local level, experiences which should prove valuable aids in administering the new education block grants to maximize their benefits. We can but hope that Dr. Davenport will bring to this new assignment the same energy and dedication which have earned him some 50 honors and awards for his service and volunteer efforts in the past.

Our third witness will be Mr. Gary Bauer, nominated to be Deputy Under Secretary for Planning and Budget. Mr. Bauer, who holds a J.D. degree from Georgetown University, has had considerable experience in the private sector with issues of Government regulation, at the Chamber of Commerce and the Direct Mail/Marketing Association, among others.

He has also studied education as a policy analyst and adviser in the White House Office of Policy Development, where he served as Deputy Assistant Director of Legal Policy before the present nomination. Mr. Bauer seems admirably qualified to assist in the ad-

ministration's goal of reducing unnecessary Federal intrusion in education while preserving a strong Federal role where appropriate.

Finally, we will hear from Mr. Charles Heatherly, the nominee for the position of Deputy Under Secretary for Management. Mr. Heatherly holds a master's degree in political science and, through his service as director of education for the National Federation of Independent Business and his recent tenure as Executive Secretary to Secretary Bell, he has acquired a good grasp of the functioning of the various programs administered by the Department and of the Department itself.

As the official responsible for the day-to-day operation of these programs and for the Department's campaign against waste and inefficiency, the Deputy Secretary for Management plays a vital role in translating the beneficial intent of the law into concrete results for the children of America, and I believe Mr. Heatherly can do the job.

Now we will return to you, Mr. Singleton, to lead off with your remarks.

STATEMENT OF HARRY M. SINGLETON, NOMINATED TO BE ASSISTANT SECRETARY FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION

Mr. SINGLETON. Thank you, Mr. Chairman.

In accordance with your instructions, I submit my written statement for the record.

The Chairman. Thank you.

Mr. SINGLETON. Let me briefly state that I am honored to appear before the committee to seek its approval, and ultimately that of the Senate, of my nomination as Assistant Secretary of Education for Civil Rights.

The responsibilities which Congress has conferred upon the Assistant Secretary for Civil Rights under those statutes—to insure that no person is unlawfully discriminated against in federally assisted education programs and activities because of race, color, national origin, sex, handicap, and age—are enormous.

This administration is unalterably opposed to discrimination in any form and is committed to enforcement of the civil rights laws and to the ideal of equal opportunity for all Americans. The President strongly believes that discrimination must be eliminated and that the effects of prior discrimination must be effectively remedied. Further, Secretary Bell is fully committed to the belief that the resources of the Office for Civil Rights must be effectively and vigorously applied in this effort.

I share the personal commitments of the President and the Secretary for insuring equal educational opportunity and eliminating discrimination in every area in which the Office for Civil Rights has jurisdiction. I also pledge my best efforts for fair and effective enforcement of the civil rights laws.

With that, Mr. Chairman, I will dispense with further reading of my statement and open myself to questions from the Chair.

[The prepared statement and biographical sketch of Mr. Singleton and additional information follow:]

STATEMENT OF

HARRY M. SINGLETON

Mr. Chairman and Members of the Committee:

I am honored to appear before the Committee to seek its approval, and ultimately that of the Senate, of my nomination as Assistant Secretary of Education for Civil Rights.

The Office for Civil Rights administers four basic statutes -- Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

The responsibilities which Congress has conferred upon the Assistant Secretary for Civil Rights under those statutes -- to ensure that no person is unlawfully discriminated against in federally assisted education programs and activities because of race, color, national origin, sex, handicap and age -- are enormous. It is our estimation that the civil rights laws now extend to 12 million minority group members, 4 million handicapped persons and 26 million women who attend our public schools and colleges and universities and another one million handicapped persons who participate in vocational rehabilitation programs.

This Administration is unalterably opposed to discrimination in any form and is committed to enforcement of the civil rights laws and to the ideal of equal opportunity for all Americans. The President strongly believes that discrimination must be eliminated and that the effects of prior discrimination must be effectively remedied. Further, Secretary Bell is fully committed to the belief that the resources of the Office for Civil Rights must be effectively and vigorously applied in this effort.

I share the personal commitments of the President and the Secretary for ensuring equal educational opportunity and eliminating discrimination in every area in which the Office for Civil Rights has jurisdiction. I also pledge my best efforts for fair and effective enforcement of the civil rights laws.

Since its establishment in the former Department of Health, Education, and Welfare in 1967, the Office for Civil Rights has been in the forefront of the Federal effort to end discrimination and to achieve equal educational opportunity for all Americans. In its earliest years, the office was responsible for the enforcement of one statute, Title VI of the Civil Rights Act of 1964, and focused on the elimination of racially dual school systems in the eleven southern and six border States. These efforts resulted in the desegregation of hundreds of school systems and the opening of new educational opportunities to children who previously were assigned to schools solely on the basis of their race or national origin. While statistics do not present the sole measure of accomplishment, it can be said that the Office for Civil Rights, in combination with the legislative and judicial branches of government, succeeded in virtually eliminating those dual school systems. In their place, nonracial unitary school systems are now operating, and the Office for Civil Rights will protect those accomplishments fully and vigorously.

Today, the challenges for fair and effective civil rights enforcement are far more extensive than the office's earlier and virtually exclusive preoccupation with de jure school segregation in one region of the nation. The office's Title VI elementary and secondary education compliance program must now address issues

other than student assignment. These include complicated "second generation" school desegregation issues -- classroom assignment, tracking and ability grouping, student disciplinary practices, faculty assignment -- as well as programs to meet the needs of non or limited-English-proficient students. Currently, the Title VI compliance program is concerned with the placement of minority students in special education programs to make sure these programs do not become the new form of within school segregation.

Without belaboring the point, a similar process has occurred with respect to the Title VI postsecondary education compliance program. Much of the former emphasis was on desegregating racially segregated public higher education systems previously operated by eighteen States. In the process, there was major reliance on increasing overall minority enrollment and ensuring a more balanced racial distribution of students and faculty. Today, there are many concerns to address once students are admitted, on a nondiscriminatory basis, to institutions of higher education. The Office for Civil Rights is obligated to consider discrimination that may arise in areas like financial aid, housing, counseling and tutorial services, health and insurance benefits and student employment and placement services.

Another growing concern, and where there is little experience to guide compliance efforts, is in the area of student retention. In the way of illustration, a study by the Department's National Center for Education Statistics has reported that the college dropout rate for black students is approximately 32 percent higher than that of white students. As a result, we are now working with college administrators to develop specific retention strategies for increasing the graduation rate of black undergraduates.

The dramatic increase in the office's enforcement responsibilities in recent years, however, is mainly the result of the newer nondiscrimination provisions of law enacted by Congress. These are the comprehensive prohibitions against sex discrimination (Title IX of the Education Amendments of 1972), handicap discrimination (Section 504 of the Rehabilitation Act of 1973) and age discrimination (Age Discrimination Act of 1975) in federally assisted programs and activities. The compliance issues under these newer statutes involve an array of difficult and sensitive policy and legal concerns.

Title IX of the Education Amendments of 1972 was intended to eliminate artificial barriers that prevent both men and women from freely choosing the educational opportunities and careers they would like to pursue. In addition to covering admission and treatment of students, the statute also extends to employment practices of educational institutions. There are a range of associated issues: scholarships, course offerings, counseling and guidance services, athletics, membership in clubs, social and professional sororities and fraternities, and employee benefit plans.

Section 504 of the Rehabilitation Act of 1973 was intended to protect qualified handicapped individuals from discrimination. Many of these individuals have been victims of discrimination that has denied them an equal opportunity to lead full and productive lives. The statute represents a national commitment to end such discrimination and establishes a mandate to bring handicapped persons into the mainstream of American life. Like Title IX, there is a range of difficult, sensitive and controversial issues regarding the statute's application which we read or hear about almost daily like free and appropriate public education or mainstreaming of handicapped students with nonhandicapped students.

Changes in the complexity and direction of the civil rights compliance program are also reflected in the discrimination complaints that are filed with the office. The proportion of Title VI complaints (race and national origin) has declined each year since fiscal year 1978 and the proportion of Title IX complaints (sex) has declined each year since fiscal year 1977. In contrast, Section 504 complaints (handicapped) have risen from 3 percent in fiscal year 1976 to 50 percent of all complaints filed with the Office for Civil Rights in fiscal year 1981. At the same time, there has been an increasing number of multijurisdictional cases, where violations are alleged under more than one statutory authority. An analysis of complaints received in the period October 1, 1981 - June 30, 1982, shows that 16.6 percent are multijurisdictional. This is two-times the proportion such complaints represented of the total complaint workload in previous years. There also has been a parallel trend toward the receipt of more comprehensive and sophisticated complaints. In summary, the discrimination complaints the office now receives are more difficult and complex than those processed in earlier years and their handling requires greater skill and capability on the part of our staff.

There are other important factors which have brought changes in the direction and operation of the civil rights compliance program. They have included amendments to authorizing legislation and provisions attached to appropriations bills which have an import on compliance activities. Also, the influence of the Federal judiciary has been significant. The Office is under a continuing obligation to enforce the civil rights statutes in conformance with the Federal courts' interpretations of the Fourteenth Amendment to the Constitution. In the

wake of court action, the Office must effectuate the new legal principles and standards that are enunciated.

Mr. Chairman, any failure to recognize and take account of the complexities and changes affecting the civil rights program lessens enforcement of the laws. Ultimately, this does a grave disservice to the victims of discrimination. What is required is continual review of all parts of the compliance program against current needs and realities. This review must carefully examine approaches being utilized for investigating and substantiating discrimination as well as the compliance standards and remedies being applied in instances of identified discrimination. The modifications required in these areas, in turn, will necessitate appropriate adjustments in the management of staff and resources, planning and operational systems and technical assistance to help recipients comply with the laws.

There are several basic principles and overriding goals which can guide this review. The first and most basic principle is that the civil rights compliance program express, to the fullest possible extent, the language of the statutes and the intent of Congress regarding their enactment. The challenge is to carry out the statutes and protect legal rights without usurping the proper functions of parents and local communities with respect to the operation of educational programs. Further, it is important to emphasize that the civil rights statutes do not authorize Federal officials to formulate education policy. Under our federal system of government, primary responsibility for formulating and implementing education policy is constitutionally reserved to the States and their local subdivisions. The integrity of the civil

rights laws is compromised when there is overreaching into areas and pursuit of courses of action not intended by the laws constitutes unnecessary Federal intrusion.

Our responsibilities under the laws also can be carried out in a climate of respect for the autonomy and independence of State and local education authorities. This requires that we work closely and harmoniously with them, if we can, and aim for a cooperative partnership in civil rights enforcement. It is our intention to increase the involvement of State and local governments in civil rights compliance activities. We must make certain too that the compliance program is fair and reasonable and allows sufficient flexibility to school officials in meeting their obligations under the laws.

Another guiding principle is to reduce burdens and costs placed on local authorities wherever feasible. New approaches can be developed to lessen burdens on private and public educational institutions without sacrificing the attainment of our goals. For example, we can relieve them of unnecessary paperwork and eliminate or change administrative procedures that now serve little or no purpose. Also, we can simplify and clarify regulatory provisions and develop consistent compliance standards -- these standards must protect the rights of the beneficiaries of the statutes yet deal sensibly with recipients.

Most important, if we are to accomplish the purpose of the statutes -- the guarantee of equal educational opportuntity -- compliance mechanisms must be result-oriented. This may mean refining or discarding traditional approaches that no longer produce the results intended by the laws and demanded by beneficiaries.

Again, the interests of beneficiaries are not served where there is insistence on using compliance methods and remedial devices only because they were used in the past. There is need to develop enlightened and forward-looking strategies and remedies and to eliminate those which have in many instances proved ineffective, and even counterproductive, in the past. In my judgment, there is great need to seek innovative and practical approaches to achieve equal educational opportunity in our dynamic society.

This is not to argue for abandoning measures which withstand the test of experience. It does mean we strive for different and better ways in serving the interests of beneficiaries. An example is the office's role in evaluating corrective plans submitted by recipients. The test for approving the plans should not be whether particular remedial measures are used, but whether corrective plans will be effective in providing equal educational opportunity. This lends further support for allowing recipients maximum flexibility in developing plans that make sense educationally and are responsive to local needs. At the same time we can examine and bring to their attention legally acceptable remedies that also have been shown to improve the quality of education.

Finally, the basis of the civil rights enforcement program must be to encourage voluntary compliance. The Office for Civil Rights' formal investigatory program addressing discrimination complaints and conducting a limited number of compliance reviews reaches a fraction of the more than 20,000 recipients covered by the laws. The office needs to continue assisting recipients and beneficiaries to comply with the civil rights laws through a comprehensive program of technical assistance. This broadens our impact and in the process we can anticipate long-term benefits in preventing discriminatory practices. We must also

try to develop additional incentives for educational institutions to comply with the laws. Nevertheless, we are prepared to take enforcement action when voluntary compliance cannot be obtained. The effective use of the sanctions provided by the laws will remain an important part of the Administration's program to ensure Federal funds do not support discrimination.

Mr. Chairman, eliminating discrimination represents one of the most important responsibilities the Congress has placed on the Department of Education. If confirmed, I intend to assure that the promise of the civil rights laws becomes a reality to the millions of Americans protected by them.

I welcome the opportunity to join with the distinguished Chairman and members of this Committee in meeting both the challenge of equal educational opportunity and improved education for all persons in our nation.

THANK YOU.

11-834 O - 83 - 3

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: SINGLETON (LAST) Harry (FIRST) M. (OTHER)

Position to which nominated: Assistant Sec. for Civil Rights Date of nomination: 7/2/82

Date of birth: 10 (DAY) 4 (MONTH) 49 (YEAR) Place of birth: Meadville, PA

Marital status: married Full name of spouse: Margot A. Singleton

Name and ages of children: Harry, Jr.--5
Leah--3

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Johns Hopkins Univ.	'67-71	B.A.	6/71
Yale Law School	'71-74	J.D.	6/74

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
Barney Neighborhood House	President, Board of Trustees	7/78-7/80
Pennsylvania Bar Assoc.	none	1/76-present
D.C. Bar Assoc.	none	5/75-present
Congressional Staff Club	none	5/77-12/81
Congressional Flying Club	member, governing board	3/81-present

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

4/82-present; Ass't Sec. for Civil Rights (designate); ED

4/81-4/82; Dep. Ass't Sec. for Cong. Affairs; Dept. of Commerce

7/79-4/81; Minority Chief Counsel & Staff Director; House Comm'e on the Dist. of Columbia

2/77-7/79; Dep. Minority Counsel; House Comm'e on the Dist. of Columbia

2/76-2/77; Associate; Covington & Burling Attorneys; DC

5/75-2/76; Attorney; Federal Trade Commission; DC

3/75-5/75; Legislative Consultant; American Enterprise Institute; DC

6/74-3/75; Associate; Houston & Gardner Attorneys; DC

9/73-5/74; Student Admissions Officer--Law School (part time); Yale Law School; New Haven, CT

6/73-9/73; 6/72-9/72; Law Clerk; Houston & Gardner; DC

9/72-12/72; 1/72-5/72; Law Clerk; New Haven Legal Assistance Agency (part time); New Haven, CT

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

none

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

"Ordering by Mail-Know Your Rights" (An explanation of the Trade Regulation Rule rendered by the Federal Trade Commission on Mail Orders.); Skinned Knuckles - A Journal of Car Restoration; Vol. 3, Number 5, Dec. 1978

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

D.C. Republican Party--member

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

N/A

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

N/A

3. Has a commitment been made to you for employment after you leave Federal service?

No

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

My present intention is to serve the term for which the President appoints me.

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

None, other than that activity engaged in as a consequence of employment listed above.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

N/A

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION AND PUBLIC AFFAIRS

September 24, 1982

The Honorable Orrin G. Hatch
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Attached you will find the responses to the written questions submitted by you and Senator Kennedy, regarding the confirmation hearing for:

- Harry Singleton, Assistant Secretary for Civil Rights-Designate
- Lawrence Davenport, Assistant Secretary for Elementary and Secondary Education-Designate
- Gary Bauer, Deputy Under Secretary for Planning, Budget and Evaluation-Designate
- Charles Heatherly, Deputy Under Secretary for Management-Designate

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Annne Graham
Assistant Secretary
Legislation and Public Affairs

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

SEP 24 1982

The Honorable Orrin G. Hatch
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I want to thank you for the courtesy which the Committee extended to me at the September 22, 1982 hearing on my nomination as Assistant Secretary of Education for Civil Rights.

At the Committee's request, I am enclosing responses to the questions from Senator Edward M. Kennedy and yourself for the hearing record.

Sincerely,

Harry M. Singleton
Acting Assistant Secretary
for Civil Rights

Enclosure

Responses to Questions for Harry M. Singleton Submitted
by Senator Orrin G. Hatch

1. Mr. Singleton, I congratulate you on your well-prepared written statement and on your commitment to fair treatment under the law for all those protected by the Federal civil rights statutes in the education area. At the same time I much appreciate your recognition for the need for flexibility in dealing with those whose activities you monitor in this sensitive field. Do I understand you to say that you support the policy instituted during this administration of earnestly seeking compliance with the law by consultation and cooperation before proceeding to confrontation and litigation? What kinds of activities will you be undertaking that will be aimed at establishing such cooperation?

I believe that effective enforcement is made possible by establishing a cooperative posture with recipients and beneficiaries who are covered by the civil rights laws. It would be my intent to continue the emphasis on the use of innovative and nonconfrontational methods for obtaining voluntary compliance.

For example, the Office for Civil Rights, as part of its effort to handle complaints more efficiently and expeditiously, developed an early complaint resolution process. This process has been applied to complaints filed under all jurisdictions for which OCR has responsibility. The purpose of this process is to facilitate the resolution of complaints and provide parties involved with the opportunity to resolve voluntarily the issues prompting the complaints. OCR does not conduct any fact-finding or make any attempts to determine the merits of the complaint. Instead, OCR acts as a mediator in this process which is designed to avoid unnecessary conflict or delay and is less expensive.

Another new procedure is pre-findings negotiations. After completing complaint investigations and compliance reviews and developing proposed letters of findings, OCR staff meet with educational officials before issuing any formal written findings. OCR staff identify and thoroughly explain any problems and discuss any corrective plans the institution may be implementing. OCR also provides technical guidance to assist the institution in developing means for correcting any problems that may have been discovered. If the institution is implementing or agrees to implement a corrective plan that will resolve the compliance problems within a reasonable period of time, OCR then issues a finding of compliance, dependent on the successful implementation of that plan.

OCR also engages in efforts to obtain voluntary compliance through negotiations conducted subsequent to the issuance of letters of findings of noncompliance. Several significant compliance plans have been achieved through these efforts to continue the negotiation process rather than initiate enforcement proceedings.

These methods have been successful in encouraging institutions to resolve compliance problems that have been found. They are efficient and operate in a nonconfrontational environment that can help in decreasing the burdens placed on institutions when confrontational techniques are used.

2. Are there any of the Department's regulatory or legal positions which you are unable to support?

No, I am in full agreement with the positions taken by the Secretary as he implements the President's policies in matters relating to education in general and civil rights in particular.

3. I have often been concerned by the way in which statistics are sometimes used in studies, court cases, and so forth. You mention in your testimony that the college dropout rate for Black students is approximately 32 percent higher than that of White students and that as a result you are now working with college administrators to develop specific strategies for increasing the graduation of Black undergraduates. While I applaud the development of such strategies regardless of the source, have you interpreted this figure to mean that the higher dropout rate is necessarily the result of discrimination against these students by the colleges, and if so, have you thus notified these schools that they are required to bring this percentage down or face Federal sanctions?

In my view, statistics indicating a racial disparity in dropout rates are a sign of a problem that is interfering with equal educational opportunities for minority students. However, statistics alone are not sufficient to establish that discrimination is occurring. Absent other evidence, obtained through such means as thorough complaint investigations and compliance reviews, we cannot conclude that a violation of Title VI has taken place.

However, where there is additional evidence of discrimination or evidence that a state has failed to eliminate vestiges of a former dual system of higher education, we require states to develop remedial plans. One component of the plan may include action to improve the retention of Black students. In such cases, the disparity, in dropout rates of Black and White students is considered a characteristic of the former dual system that must be eliminated.

4. In your testimony, you state that there is a "great need to seek innovative and practical approaches to achieve equal educational opportunity in our dynamic society." Can you tell us whether your Office has made progress in this direction and what some of your plans are?

It is my belief that some remedies which were developed over a decade ago to root out the causes of discrimination preventing certain of our citizens from enjoying equal education opportunities are no longer appropriate to meet the more subtle forms of discrimination we see today. I plan to utilize the very able staff of the Office for Civil Rights to reexamine these remedies and amend them or discard them, where applicable; replacing them with new and more effective remedies.

Further, one of my most important objectives is to ensure the Office for Civil Rights focuses its attention on "core" or mainstream civil rights issues. I intend to emphasize such issues so that our staff resources are most effectively utilized. For example, on July 28, 1982, we published a final rule that amends the Title IX implementing regulation (Title IX of the Educational Amendments of 1972) by revoking the portion that prohibits discrimination in the application of codes of personal appearance or "dress codes." This regulatory amendment will enable us to concentrate our resources on the provisions of Title IX that are more central to the statute's prohibition of discrimination on the basis of sex.

Responses to Questions for Harry M. Singleton Submitted
by Senator Edward M. Kennedy

1. Please describe any experience you have which is relevant to your appointment as Assistant Secretary for Civil Rights.

The Assistant Secretary for Civil Rights has significant law enforcement responsibilities. In my judgment, a legal background is important for this position to assist in understanding the various legal principles and nuances often involved in the enforcement of the laws. As an attorney with a wide range of legal experience in both the private and public sectors, I feel that I am well qualified for the position. I know, first-hand, discrimination as a member of a racial minority group in this country and am sensitive to it in any form.

2. Please describe your responsibilities as Assistant Secretary for Civil Rights and your role in decision-making within the Department of Education.

Under the Department of Education Organization Act, the Assistant Secretary for Civil Rights is the principal adviser to the Secretary of Education on civil rights matters and administers and enforces the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. These responsibilities include the conduct of investigations and negotiations to secure voluntary compliance and determining whether voluntary compliance can be secured. In the event voluntary compliance cannot be obtained, the Assistant Secretary for Civil Rights is responsible for the conduct of administrative proceedings or referral to the Department of Justice for appropriate legal action.

Another responsibility concerns coordination of information and research to ensure compliance with the statutes. In addition, the Assistant Secretary for Civil Rights must conduct a program of technical assistance to encourage voluntary compliance on the part of recipients as well as help the Department's program units meet their civil rights objectives.

3. Your disclosure form, submitted to this Committee, included little substantive experience in the field of civil rights. What specifically have you or will you do to acquaint yourself with the problems in this field?

Since joining the Office for Civil Rights in April 1982, I have undertaken a comprehensive review of the Office's enforcement responsibilities, including associated legal and programmatic issues, as well as the operation of the compliance program. I have met with representatives of several special interest groups to discuss issues of concern to them within the purview of OCR. Also, I have made recent changes in the Office's management information system to ensure the receipt of more comprehensive analyses to assist in my management of the program.

4. Do you favor the elimination of the Department of Education? Please explain the reasons for your answer.

I support the Administration's plan, as articulated by the Secretary, to eliminate the Department of Education and establish a Foundation for Education Assistance.

5. In an article by James W. Singer in the National Journal of March 14, 1981, you are quoted as criticizing "traditional civil rights groups" for pursuing "bankrupt policies that have outlived their usefulness and are no longer valid or workable."

A. To what policies were you referring?
B. Could you explain your characterization of the policies?

The policy to which I was specifically referring was busing. My statement was not meant to denigrate the very positive activities of traditional civil rights groups. What I intended to do was express my personal dissatisfaction, as a private citizen, with the blind adherence to the policy of busing students solely to achieve racial intergration as a premise for improving academic achievement on the part of minority children. I find it personally insulting to Black people to infer that the only way Black children can learn is to have them sitting next to White children in the classroom. If that were, in fact, a valid premise we would be hard pressed to explain the achievements of the Black students who attended the Dunbar High School right here in Washington, D.C. during the days of segregation.

6. As you know, Congress, in creating the Department of Education, established a clear statutory priority for the Office for Civil Rights in the enforcement of all civil rights laws in all programs administered by the Department of Education. In recent months, it appears that the Office of the General Counsel of the Department of Education as well as the Justice Department have significantly encroached on the responsiblities of OCR in this area.

A. How will you reestablish OCR's priority with regard to its statutory responsibilities?

There is no need to reestablish the authority of the Office for Civil Rights in implementing any of its statutory authorities. That position is secure within the Department of Education and receives the full support of the Secretary. In addition, OCR's expertise and statutory authority is acknowledged by the Department of Justice as it respresents the Department in all Federal court proceedings.

B. Are staff increases necessary for OCR to meet its statutory responsibilities?

The current authorized ceiling of 1046 is adequate for OCR to meet its statutory responsibilities.

A staff of 1046 enables OCR to administer and enforce the above statutory authorities and Departmental policy prohibiting discrimination on the basis of race, color, national origin, sex, handicap or age.

C. Are any office reorganizations necessary for this purpose?

It is not necessary to reorganize to establish OCR's statutory priority in the enforcement of civil rights law.

7. A. What are the priorities of OCR?

My major priority, initially, for OCR is to ensure the Office is operating in the manner most efficient for the vigorous enforcement of Federal civil rights statutes. A number of management studies conducted by the Department, as well as the General Accounting Office and other external entities, cite serious problems and inefficiencies, the net effect of which hurt our overall performance. My goal is to strengthen management of the Office and institute clear lines of communication between headquarters and the regional offices and staff at all levels.

B. What guidance has been provided by Secretary Bell or the Administration in determining these priorities?

Both Secretary Bell and the Administration have stressed effective and vigorous enforcement of the civil rights laws. This has been a guiding principle in setting my priority to improve the management efficiency of the Office for Civil Rights.

8. As you know, significant controversy has arisen over the decision by the Government not to appeal a district court decision in the University of Richmond v. Bell. The decision was criticized by Clarence Pendleton and the U.S. Commission on Civil Rights.

A. What is the impact of the Richmond decision on the activities of OCR?

The case of University of Richmond v. Bell has no impact on the enforcement activities of OCR outside of the Eastern District of Virginia. As was the case in Title IX employment until North Haven v. Bell was decided, OCR will continue to enforce its regulations according to the law of the

various jurisdictions in which it acts until there is such a severe split in the Federal courts that it cannot act and the Supreme Court must intervene. Even in the Eastern District of Virginia, OCR considers itself able to enforce its regulations but is required to labor under an increased burden of proof to show with greater particularity what programs receive Federal financial assistance.

B. In your opinion, does the Richmond decision conflict with the recent holdings by the Third Circuit in the Grove City v. Bell and Hafer v. Temple University?

There is no question that there is now a split of opinion between the Federal District Court for the Eastern District of Virginia and the Federal Court of Appeals for the Third Circuit. Even a casual reading of the three opinions reveals a widely disparate view between these two courts of what constitutes a program or activity within the meaning of the civil rights acts where the Federal assistance at issue is non-earmarked funds.

C. How was the recommendation to not appeal the Richmond order made by the Department? What was your role in making that recommendation?

The Department's recommendation not to appeal the Richmond order was made after a number of discussions among the Secretary of Education, the Acting Assistant Secretary for Civil Rights, the General Counsel, and Department of Justice officials. As chief adviser to the Secretary on Civil Rights matters, I took an active part in the discussions of the Department's position on whether an appeal should be recommended.

D. Given that the decision in Hafer v. Temple University more closely resembled the situation in Richmond and postdated the government's decision not to appeal Richmond, is there justification for the government to now change its position and request an appeal in Richmond due to changed circumstances?

I am advised that the September 4, 1982, filing date for an appeal in Richmond is final and not subject to change by either party's later decision to appeal. In addition, the infirmaties in the government's orginal position in the Richmond case still advise against appealing the trial court's opinion but recommend choosing a better record upon which to present the government's view of the program or activity question at the appellate court level.

E. I understood that the government is developing its position in Iron Arrow Honor Society v. Bell, a Title IX case in the Fifth Circuit. What position should the government take in this case? Describe your role in the development of the government's position?

The court has asked the parties to brief this threshold question on how it should proceed. OCR's role is to advise the Secretary and the Department of Justice on the legal merits and policy implications of both the scope of the questions before the Fifth Circuit and the various possible answers to those questions.

9. As you know, OCR's current enforcement effort is controlled by the consent decree entered in the Adams case. Recently OCR has asked the court to modify or vacate the order.

A. How do you justify this request?

The consent decree entered in 1977 contained numerous unrealistic provisions, is cumbersome, and often does not reflect the practices of OCR. As a result, the decree interfered with OCR's ability to carry out its job.

The time frames for processing complaints and conducting compliance reviews are unrealistically short and their operation is inflexible. Furthermore, the emphasis placed on speedy processing of complaints detracts from OCR's ability to conduct compliance reviews, although compliance reviews are a much more effective method of enforcing the law. Persons from HEW who participated in the negotiations in 1977 admitted that they had no data indicating whether OCR could comply with the time frames and merely hoped that OCR could comply. In actuality, OCR has never been able to consistently comply with the time frames, no matter who was Director of OCR nor which administration ran the Department.

The purpose of the new proposal is to provide a realistic set of time frames and procedures under which OCR can operate. The proposed order is a result of OCR's experience over the last five years, a lengthy self-study into OCR's processing of cases, and a statistical analysis of case processing times. Unlike 1977, when OCR merely held an unsubstantiated hope that it would be able to comply with the consent degree, OCR feels that its new proposal can be followed.

B. Please provide a region-by-region breakdown of the compliance or lack of compliance under the Adams decree of OCR in individual cases.

Based on the most recent 12-month averages, a regional breakdown of compliance with the Adams time frames reveals the following information.

For all stages of complaint processing, Region I had an 80 percent compliance rate while Region II had an 86 percent average. Regions III, IV and V had lower rates, at 78 percent, 73 percent and 68 percent respectively. Region VI had an 80 percent rate, Region VII a 67 percent average and Regions VIII and IX each had an 82 percent rate of compliance. Region X had a 71 percent compliance rate.

For all stages of compliance review processing, the compliance rates were: 100 percent for Region I, 43 percent for Region II and 16 percent for Region III. Region IV had a 17 percent rate while Region V does not have an average rate of compliance because they have not started any reviews in the last 12 months. Region VI had a 40 percent rate, while Region VII had a 0 percent average. Regions VIII, IX and X had 50 percent, 28 percent and 50 percent average rates of compliance, respectively.

C. I understood that a recent study by OCR blamed failures to comply with the Adams timetable on managerial problems in the regional offices. Please describe the managerial problems cited in the report and any actions you will take to alleviate these problems.

The Adams Time Frames Study conducted by OCR was designed to: review OCR's procedures used in processing of cases; identify problems related to complaint processing; and determine whether the current time frames are realistic, and if not, propose new time frames. The study identified a wide range of problems, both within and outside OCR's control, that affect case processing. These problems included the complexity of cases, heavy and fluctuating workload, and uncooperative recipients, in addition to management problems in OCR headquarters and regional offices. Furthermore, the study indicated that time frames were unrealistic and will often be missed. Failure to comply with the current time frames cannot be "blamed" on any one factor.

The principal management problems identified in the report include: unavailability of staff (professional and clerical) because of other assignments; disagreements of approach between attorney staff and investigative staff; staff training necessary; lack of developed policy; judgments on staff assignments; indecision or confusion as to proper handling of cases; and staff failure to follow instructions, policy, or investigative procedures.

In many instances, problems identified in the study already have been eliminated and some recommendations were incorporated into the proposed Adams order recently filed by the government. Problems and their solutions which promise the most success in improving efficiency and and reducing case processing time have been identified. I plan to implement these solutions, monitor improvement efforts, and measure their effect on case processing.

D. Given these managerial weaknesses, why have you increased the responsibilities of the regional offices?

While I have made some changes in the reporting relationship between OCR headquarters and regional offices, delegations of authority to the regional directors remain the same as under the previous administration. I have defined lines of communication and responsibility

which were causing unclear direction to the regional directors and resulting in duplication of effort. I have also made an effort to draw upon the experience and knowledge of the regional directors and involve them more fully in the operations of the Office.

10. A recent study by the Joint Center on Political Studies concluded that segregation among black students in the South had decreased, but that it continued to be severe among northern blacks and even had increased among Hispanic students.

A. Would you comment on this study?

As I understand it, the study was prepared at the request of the House Judiciary Committee's Subcommittee on Civil and Constitutional Rights by Dr. Gary Orfield of the University of Chicago who relied heavily upon Department of Education civil rights reporting data in formulating his findings. The study concludes that schools in all areas of the country have become more racially and ethnically isolated since 1976, including those in the South. Most desegregation in the South occurred between 1968 and 1972. The key implication of his study is that desegregation within the public schools since 1968 appears to be the exclusive product of aggressive civil rights enforcement in the South. Some have concluded that this study shows that school desegregation has been accomplished only under tough legal standards and imposition of court-ordered remedies, such as busing. (It should be noted here that the Office for Civil Rights is prohibited by the Eagleton-Biden Amendment from employing busing as a remedy but must refer any such case to the Department of Justice for enforcement.)

B. How do you assess its conclusions?

Because the study is at best merely a statistical profile of the public educational system, it is not helpful as OCR attempts to identify the cause of such segregatory trends and design appropriate remedies which eradicate the cause and correct immediate problems. In short, the study concludes that the country has a continuing problem with fully integrating racial and ethnic minorities in its education systems. OCR has in the past and will continue during my tenure to fight the trend Dr. Orfield describes. I will fully employ the resources of my Office to ensure that recipients of Federal financial assistance do not discriminate on the basis of race, national origin, gender, handicap or age.

C. What are the implications of these conclusions on the efforts of OCR?

The study supports OCR's increased emphasis on bilingual education to integrate language minority students and its enforcement of existing guidelines for the implementation of such programs. It validates OCR's insistence that States augment the Federal enforcement role by monitoring the compliance of their local government agencies.

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11. I understand that the Office of the General Counsel drafted regulations to limit complaints investigated by OCR to those with a reasonable chance of success. I also understood that your predecessor, Mr. Thomas, opposed this proposal.

A. Do you also oppose this proposal?

I know of no proposal dealing with success on the merits as you describe in your question. However, the proposal to which you may be referring is a suggestion by General Counsel that OCR adopt a standard by which the selection of compliance reviews will be made and complaints accepted. I have informed the General Counsel that, like my predecessor, I do not support this proposal; that, in my opinion, it does not serve the public policy underlying the civil rights laws and it is inconsistent with relevant legislative history and case law.

B. What should OGC's role be in determining the responsiblities of OCR?

The Department of Education Organization Act gives no authority to the Office of the General Counsel to determine the responsibilities of OCR. That authority lies solely with the Assistant Secretary for Civil Rights. The Office of the General Counsel serves as legal counsel to the Secretary, not as arbiter of the duties of the Office for Civil Rights.

12. I understand that Secretary Bell has to institute a policy of "non-confrontational" enforcement of Title VI, Title IX, and Section 504 requirements.

A. What is the justification for this policy?

B. What changes have been implemented in response to this policy?

C. Have complaint or compliance investigations been reduced due to this policy?

D. Have any violations not been cited as a result of this policy?

E. How can this policy of "nonconfrontation" insure that enforcement continues to be adequate?

The Secretary of Education and I have embarked on a program designed to foster a more cooperative working relationship between the Office for Civil Rights (OCR) and education institutions which receive Federal funds. There are two justifications for this approach. The first is that we believe the civil rights statutes are more effectively enforced through the development of a partnership between the Federal Government and State and local governments than through an adversarial relationship which has typified OCR's

traditional mode of operation. The second is that OCR's limited investigative staff cannot possibly review the thousands of education institutions covered by Title VI, Title IX, and Section 504. By using the innovations discussed below, investigative staff time can be assigned to additional compliance reviews.

During the previous administration, which also recognized the need for more cooperative relationships with State and local governments, OCR began to develop a program of "technical assistance" to States and local governments to inform them of their civil rights obligations and acceptable methods for achieving compliance with the civil rights statutes. The technical assistance program has expanded considerably since its inception. By using technical assistance, OCR can communicate with many education institutions in the same amount of time required to conduct one compliance review. In addition to offering technical assistance through workshops, conferences, publications, and the media, OCR now incorporates technical assistance into its complaint investigations and compliance reviews as part of remedies and settlements.

"Early Complaint Resolution" (ECR) was also initiated by the previous administration. In this process, OCR acts as a neutral mediator and assists complainants and institutional representatives in resolving the issues raised in complaints. The mediation is controlled by specific time frames and the complaint is fully investigated if the parties fail to reach a resolution. Initial analysis of ECR indicates that a resolution is reached in the majority of cases where this technique is used. Regional offices are being encouraged to employ this technique in the type of cases where it appears to operate most effectively. Investigative resources made available through this time-saving technique are devoted to additional compliance reviews.

A third innovation, recently implemented by OCR, allows regional staff to negotiate a settlement with an institution where violations are found prior to the issuance of a letter of findings. This procedure permits an institution to come into compliance with civil rights statutes and avoids the necessity of a letter of findings citing the institution for violating the civil rights statutes. Investigations are conducted in the same manner as before and the same standards are used to determine whether discrimination has occurred. If the negotiations are unsuccessful, a letter of findings citing the institution for violating the relevant civil rights statute(s) is issued. When negotiations are successful, a letter of findings indicating that violations have been corrected is issued. OCR is collecting data to evaluate the effectiveness of this technique.

Complaint investigations and compliance reviews have not been reduced as a result of these innovations. Under the Adams order, OCR must respond to all allegations of discrimination filed with the agency within specific time frames. OCR's complaint workload is at its lowest point in a number of years. Compliance reviews actually increased in fiscal year 1982 over the previous two years.

We believe that by using the innovations discussed here the enforcement of Title VI, Title IX, and Section 504 is not only adequate but is more effective than previous enforcement efforts. If the techniques described here are unsuccessful in certain cases, OCR will not hesitate to employ the sanctions required by the statutes, including the termination of Federal financial support.

13. I understand that civil rights enforcement in the area of vocational education has been delegated to the states. However, the efforts of the states have been hampered by a lack of technical assistance, funding and policy guidance by OCR.

A. Given these problems, can the states do an adequate job at enforcement?

Enforcement of Federal civil rights statutes has not been delegated to the States. Rather, the States and territories are required under the Vocational Education Guidelines, issued in March 1979, to develop a compliance program to prevent, identify and remedy discrimination on the basis of race, color, national origin, sex and handicap. States are required to review and monitor the civil rights compliance status of local vocational schools but they are not authorized to take enforcement action. Instead, States are expected to negotiate remedies and provide technical assistance. OCR reviews all state activities under the Guidelines and provides technical assistance and policy guidance to the States.

Under the Guidelines, the States were required to submit a Methods of Administration (MOA) statement describing their compliance program under Title VI. The regulations pursuant to Title IX and Section 504 do not currently contain a Methods of Administration provision. However, instructions to State agencies directed them to extend their monitoring activities to discrimination on the basis of sex and handicap and notes that a regulation requiring them to do so will be forthcoming. I approved an NPRM to extend the MOA requirement to Title IX and Section 504 in vocational education programs on July 2, 1982. The NPRM is currently under review by Department officials. OCR views the MOA requirement as a means of extending our limited investigative resources and involving State governments in our enforcement program. This effort was initiated by the previous administration.

To date all States and territories are complying with the MOA requirement under Title VI. All States, with the exception of New Mexico, have included the monitoring of vocational programs and institutions for compliance with Title IX and Section 504 as well as Title VI despite the absence of an NPRM requiring them to do so.

Since the issuance of the Guidelines in 1979, OCR has established lines of communication with the responsible State vocational agencies. A training program for State vocational staffs was implemented in 1980 to instruct them in the development of their MOAs. OCR regional staff meet at least

once a year with State staff to review the State annual report. Technical assistance and policy guidance are provided by regional staff upon request. This spring, OCR sponsored a series of three-day training sessions for vocational education staff from all States and territories.

The effect of the State monitoring programs on civil rights enforcement cannot be measured until the 1982 annual reports have been analyzed by our Regional Offices. These reports will indicate how effectively the State agencies have identified possible noncompliance in local vocational programs and schools and provided the technical assistance needed to effect lasting remedies.

B. How is OCR monitoring these State efforts?

Each OCR Regional Office has established a vocational education coordination unit, which has received training from headquarters staff in monitoring and advising State agency activities. From July 1981 through June 1982, the regional coordinators were required to hold at least one on-site conference with each State vocational staff to analyze the State's compliance activities and to provide technical assistance for improving these activities. These conferences have been completed for the 1981-1982 cycle and the results will be determined from an analysis of each State's annual report, which was submitted in July and is now under review by regional office staff.

C. With regard to an investigation in New York City, please specifically assess the State's effort and specifically describe OCR's monitoring efforts.

OCR's involvement with the State of New York in reviewing State vocational education programs illustrates how the MOA is being implemented. An OCR review of enrollments in New York State's vocational education schools indicated that 13 vocational high schools (2 in Buffalo and 11 in New York City) were better than 95 percent of one sex. In November of 1981, OCR requested that the New York State Commission of Education conduct a State compliance review of these schools under the provisions of New York's Method of Administration requirements. The Commission agreed and after several meetings involving OCR headquarters and Regional staff, the New York State Education Department (NYSED) began the compliance reviews in April of 1982. The onsite reviews of the 13 schools were completed in June. The OCR regional office in New York reports that the NYSED is now finalizing its compliance review reports and its Letters of Findings to school authorities in Buffalo and New York City. Copies of the Letters of Findings will be reviewed by OCR after the local authorities have reviewed them.

OCR believes that the NYSED is conducting the 13 compliance reviews competently and effectively. The State has assigned at least 10 personnel to conduct the reviews and has sought the guidance and technical assistance of OCR headquarters staff and regional coordinators.

STEWART B. McKINNEY
4TH DISTRICT, CONNECTICUT

109 CANNON HOUSE OFFICE BUILDING

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September 22, 1982

Honorable Orrin G. Hatch
Chairman, Committee on Labor
and Human Resources
United States Senate
4230 Dirksen Senate Office Bldg.
Washington, DC 20510

Dear Mr. Chairman:

Today your Committee will begin confirmation hearings for several executive level positions in the Federal government. It had been my intention to be present to introduce Mr. Harry M. Singleton, the appointee for Assistant Secretary for Civil Rights, in the Department of Education. However, I have been informed that, in the interest of time, your Committee will forego the normal introductory process. I understand the necessity for this approach, and therefore request that this letter be made available to the Members of your Committee and be made a part of the permanent hearing record.

In my capacity as Ranking Minority Member of the Committee on the District of Columbia, I have had the privilege of working with Mr. Singleton for the past five years. After his service as Deputy Counsel to the Committee, I appointed him Minority Counsel to the Committee in 1978. He served in that capacity until April, 1981. The benefits of his counsel during that period cannot be overstated. He consistently exhibited the ability to assess, fairly and impartially, any issue confronting our Committee. His work was completely professional and thorough. In addition to his personal professionalism, his talent as an administrator of other Committee staff was exemplary.

Perhaps more important that his past accomplishments is the fact that I have found Mr. Singleton to be an individual of great strength and moral character. I am sure that, faced with any issue or situation, he would insist on a complete assessment and enunciate policy consistent with the facts.

I do not wish my comments to be construed as anything more than an invitation for your Committee to carefully examine the performance of Mr. Singleton in his past assignments, and let the record speak for itself. If such action is taken, as I am sure it will be, you cannot escape arriving at the same conclusion I have — Mr. Singleton will unquestionably serve his government with ability and honesty.

I urge your favorable consideration of his appointment.

Sincerely,

Stewart B. McKinney

Stewart B. McKinney, M. C.

The CHAIRMAN. Thank you, Mr. Singleton.
Mr. Davenport, please proceed.

STATEMENT OF LAWRENCE F. DAVENPORT, NOMINATED TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION

Mr. DAVENPORT. Mr. Chairman, I am glad to have the opportunity to appear before the committee on my nomination by the President to be the Assistant Secretary of Elementary and Secondary Education.

I am also pleased to have been able to have served as the Associate Director of ACTION for over a year. We have been able to implement some very significant achievements there. I hope that experience at ACTION will also aid me in my experience as Assistant Secretary of Elementary and Secondary Education.

Along with your guidance, I submit my official statement for the record.

[The prepared statement and biographical sketch, and questions with responses of Mr. Davenport follow:]

STATEMENT OF

LAWRENCE F. DAVENPORT

Senator Hatch and Members of the Committee:

It is a privilege to appear before this Committee to seek your consent for my appointment as Assistant Secretary for Elementary and Secondary Education.

As an educator, I am honored to have been selected to serve the President in this particular position. I strongly support the President's proposals for education and believe that they will result in a reaffirmation of the importance of education at the State and local levels.

I am prepared to assist local educators in renewing the national commitment to excellence and achievement in education at the local level by promoting identification, development and communication of effective practices.

Over the years, the Federal Government has provided many billions of dollars to meet a variety of educational needs. Now we must capitalize on that investment and apply the lessons that have been learned. Utilization of successful educational practices is critical to the effective management of declining resources at both the Federal and State levels.

Within the Department of Education, the Office of Elementary and Secondary Education represents 16,000 school districts and fifty two State agencies. The quality of the relationship which exists between the Office of Elementary and Secondary Education and those we serve depends in large part on the effective internal management of the office. As a senior official at

ACTION, I have learned how to manage Federal organizations to provide the services requested by our clients without intruding unnecessarily into State or local affairs. I am prepered to continue these management practices in the Department of Education.

I look forward to serving the President in the Department of Education and to working with this Committee to address the important educational questions which confront all levels of government.

Thank you for the opportunity to meet with you today. I will be happy to answer any questions you may have.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: Davenport (LAST) Lawrence (FIRST) Franklin (MIDDLE)

Position to which nominated: Assistant Secretary for Elementary and Secondary Education, Department of Education

Date of nomination: 9/1/32

Date of birth: 13 (DAY) 10 (MONTH) 44 (YEAR)

Place of birth: Lansing, Michigan

Marital status: Married

Full name of spouse: Cecelia Jackson Davenport

Name and ages of children:

Lawrence, Jr.	15
Anita	13
Anthony	6

Education:

Institution	Dates attended	Degrees received	Dates of degrees
St. Mary's High School Lansing, Michigan	1959-62	HSD	6/3/62
Lansing Community College Lansing, Michigan	1962-65	AA	6/13/65
Michigan State University E. Lansing, Michigan	1964-66	BA	12/17/66
Michigan State University E. Lansing, Michigan	1966-68	MA	3/16/68
Fairleigh Dickinson Univ. Rutherford, N.J.	1972-75	EdD	5/25/75

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Please see attached pages.

PAPERS PRESENTED

Davenport, Lawrence F., "Impact of Vocational/Career Education on Urban Minorities and the Disadvantaged," Association of American Community and Junior Colleges, Washington, D.C., March 1976

Davenport, Lawrence F., "Vocational Education Research for the 1980's," American Vocational Association, Ahaheim, California December 1975

Davenport, Lawrence F., "Career Education," Assembly Select Committee on the Implementation of Career Education, November 1975

Davenport, Lawrence F., "Mandamus for Change in Student Services," Emergency Conference on Education, Austin, Texas, April 1972

Davenport, Lawrence F., "Career Education, Part I," Background Paper, National Policy Conference on Education of Blacks, Washington, D.C., March 1972

AWARDS AND PRESENTATIONS

Who's Who in California, 1981-82

Who's Who in Finance and Industry, 1981-82

Directory of Distinguished Americans, 1981 Edition

The American Registry, First Edition, Fall 1980

Outstanding Young Men of America, 1975, 1976, 1977, 1978, 1979, 1980

Dictionary of International Biography, Volume XVI 1979-80 Edition

International Who's Who in Community Service, Winter 1980

Men of Achievement, Seventh Edition 1979-80, Eighth Edition, Spring 1981

Who's Who Among Black Americans, 1975-76, 1977-78, 79-80, 80-81

Who's Who in the West, 17th Edition

Notable Americans of 1978-79

Personalities of the West and Midwest, 1978, 79, 80

Outstanding Young Citizen of San Diego, 1978 - San Diego Jaycees

One of the Ten Outstanding Citizens of San Diego, 1977 - San Diego Jaycees

Certificate of Recognition - Masjid Muhammad #8, June 1977

Honorary Lt. Colonel, Aide-de-Camp, in the Alabama State Militia in the service of the governor of Alabama, June 1977

Resolution - San Diego Urban League, Inc., June 1977

Congratulatory letter from Pete Wilson, Mayor of San Diego, June 1977

Don Diego Trophy for Outstanding Achievement - San Diego Convention & Visitors Bureau, June 1977

Certificate of Appreciation - A. Hakim Majied, June 1977

Roots Challange Award for promoting academic excellence and progressive community development in ECC service area, June 1977

Certificate of Recognition - San Diego Black Nurses Association, June 1977

Proclamation from the Board of Education of the San Diego Unified School District, June 1977

Certificate of Recognition - Neighborhood House Association, June 1977

Plaque - Model Ex-Offenders, Inc. - for tireless efforts in the field of education in San Diego County, June 1977

Plaque - Councilman & Mrs. Leon Williams - in honor of dedicated services to ECC, June 1977

Plaque - Action Interprises Development - for achievement in planning, coordinating, directing and motivating the outstanding growth of ECC, June 1977

Resolution - The Senate, California Legislature - Senator James R. Mills, June 1977

Certificate of Merit - San Diego Chapter Operation PUSH, 1976

Certificate of Appreciation - North Park Lions Club, 1974

Certificate of Appreciation - Greater Lansing Urban League, 1973

Recipient of the Keys to the Cities of New Orleans, Louisiana; Tuskegee, Alabama; and San Diego, California

Honorary Citizen of New Orleans, Louisiana - January 1973

Plaque from National Advisory Council on Vocational Education for services as Chairman of the Council

Award of Merit for "Service to Vocational Education" - the Bureau of Occupational, Adult and Technical Education

Citation and the Presidential Cufflinks for service as Chairman of the National Advisory Council on Vocational Education - The President of the United States

Resolution from the Michigan House of Representatives for "Service as Chairman of the National Advisory Council on Vocational Education and Contribution to the Youth of Michigan and of the United States." - January 13, 1973

National VICA Appreciation Certificate for "Special Service in the Development of Industrial Youths"

Award for "Outstanding Achievement in Education" - National Association of Negro Business and Professional Women, Fling Club - March 12, 1972

Honorary Co-Chairman for the National Black Adult Educators, National Membership and Awards Banquet, 1972

VICA - "Blue Blazer" for contributions to youth organizations and education - California chapter

DECA Association - "Blue Jacket" for contributions to youth organizations and education

Award for "Outstanding Service to Education" - Hawaii Practical Arts & Vocational Assoc.

Award for "Outstanding Service to the Industrial Youth of America - Engaged in Vocational Education"

Selected to assist in the selection of Star Agri-Businessman of 1971 - Future Farmers of America Conference, 1971

Representative to the Emergency Conference on Higher Education for Minority and Poor Youth - Antioch College, 1970

Honorary Adjutunt in the Silver State Militia in the service of the governor of Nevada, 1971

Honorary Texan - March 1971

Resolution passed by the Michigan State House of Representatives for service in Compensatory Education

Award for "Outstanding Service to Vocational Education and FFA" from the Future Farmers of America, October 14, 1971

Recipient of the Vocational Industrial Clubs of America (VICA) Gavel as a symbol of leadership, National VICA, California Chapter

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
Urban League of San Diego	Chairman of the Board	1977-81
San Diego Opportunities Industrialization Center	Member Board of Directors	1979-81
Neighborhood House Association of San Diego	Member Board of Directors	1977-81
Neighborhood Home Loan Counseling Service	Member Citizens Advisory Council	1978-81

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

9/67-8/68 - Instructor, Social Sciences - Lansing Community College

7/68-6/69 - Instructor, Afro-American History - Lansing Comm. Coll.

7/68-5/69 - Assistant Director of Student Activities - Lansing Comm Col

5/69-9/72 - Assistant Dean for Special Projects - Univ of MI, Ann Arbor

8/72-9/74 - Vice President for Development - Tuskegee Institute, Al.

9/74-6/79 - President - SDCCD Educational Cultural Complex

7/79-6/81 - Provost - San Diego Community College District (SDCCD)

1972-5/81 - Adjunct Professor - Cal. State, Long Beach

1980-81 - Adjunct Professor - Pepperdine University

1980-5/81 - Adjunct Professor - Webster College

7/81 - Present - Associate Director of ACTION

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

National Institute of Education Task Force on Vocational Education
Steering Committee for the 1977 Education Conference (S.D. Urban League)
National Advisory Council on Equality of Educational Opportunity (Vice Chairman)
National Advisory Council on Vocational Education (Chariman)
National Manpower Advisory Council
State Community College Task Force (1976)
1976 White House Conference on Domestic Affairs
National Advisory Council on Career Education in Manufacturing
National Task Force on Career Education and the Blind
Advisory Committee on the Orange County Consortium Career Ed. Project
National Task Force on New Strategies for Vocational, Technical and Adult Education in Urban America

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

BOOK: Davenport/Petty, "Career Education & Minorities," Educational Community Publishers, Columbus, Ohio, 1973
BOOK CHAPTERS: "Occupational Education in Community Colleges for the 1980's, New Directions, Jossey-Bass, March 1981
"The Changing Clientele for Vocational Education in America," American Vocational Association's 1980 Yearbook.

ARTICLES: "The Consumer, The Loser," The Marine, 1969
"Vocational Education," The School Shop, Spring 1973
"Vocational Student Organizations," VICA Magazine, Spring 1973
"Counselors: Function or Form?" Impact Magazine, Winter 1973
"Revolution in Education," Gregg Division of McGraw-Hill Book Company
"Teachers: The Key to Successful Industry-Cooperation," Business Educational Forum, December 1972

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

Committee to Elect Chris Davenport

Dan Grady - San Diego Community College Dist. Board of Trustees

Lee Hubbard - Supervisor

Jim Mills - State Senator

Tom Pauken for Congress
Lou Ridgeway - San Diego Community College Dist. Board of Trustees
Pete Wilson - Mayor and Governor

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No

3. Has a commitment been made to you for employment after you leave Federal service?

No

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

Yes

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

None

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

11-834 O - 83 - 5

Response to Question for Lawrence Davenport Submitted by Senator Orrin Hatch

Dr. Davenport, if confirmed, you will preside over one of the most important Federal educational innovations in many years -- the Education Block Grant. While I strongly support this program and was intimately involved in its development last year, I am concerned that the Block Grant is as yet poorly understood by our citizens at large. In particular, I feel that not only must the local and State educational agencies understand the recommitment to them of authority previously assumed by the Federal Government, but parents and other concerned citizens must realize that they are primarily responsible under the block grant system for how well it functions in their local schools. More than before, it is now necessary for them to become involved in the operation of those schools and in the local political processes in order to make sure these Federal funds are used wisely and in accordance with worthy local priorities as they see them.

Has the Department considered the problem of getting this message across to the people, and if so, what does it feel the proper course of be?

Answer: As you stated, the block grant is one of the most important Federal educational innovations in many years. It represents a first step toward the return of educational decision-making to those most directly involved in and affected by those decisions. Parents and other concerned citizens have a critical role to play in this process. However, the history of Federal intrusion in State and local affairs is a long one and we are finding it necessary to break the traditional patterns of dictating solutions to State and local officials when citizens come to this Department for assistance. The problem is compounded by an attitude on the part of some in the education community that only credentialled educational personnel should be involved in education decision-making. We have encouraged State and local officials to consult with parents and the community in designing educational programs. When citizens have written to this Department seeking assistance for block grant funds in what should properly be handled at the State or local level, we have referred them to appropriate State or local officials. We have pursued this action not because we are insensitive to citizens' needs, but because we want to instill in them a habit of informing State and local officials of their concerns and priorities. We have also emphasized the importance of citizen involvement in education through the Secretary's Commission on Excellence. This Commission has held meetings throughout the Nation to solicit public comment about ways to improve academic excellence in elementary and secondary schools.

I believe we are witnessing a renewed interest of citizens in the education of their children and their successes in improving education at the local level will serve to reinforce our policy of providing local flexibility through block grants.

Response to Questions for Lawrence Davenport Submitted by Senator Edward Kennedy

1. Describe the experience you have relevant to your post as Assistant Secretary for Elementary and Secondary Education.

Answer: The Assistant Secretary for Elementary and Secondary Education requires the ability to provide leadership in elementary and secondary education nationally and to effectively manage the fiscal and human resources allocated to the division of elementary and secondary education. My experience in education includes counseling, teaching, management and educational leadership positions, all of which have helped to prepare me to fulfill the responsibilities of the Assistant Secretary for Elementary and Secondary Education.

As Director of Special Projects and later as Assistant Dean at the University of Michigan-Flint, I was responsible for the Challenge Program. In this capacity, I worked with high school students in grades 10, 11 and 12 to assist them in preparing for college. Aside from designing, staffing and supervising summer workshops that provided instruction in math, reading, English and study skills, I worked closely with their high school teachers and counselors and their parents throughout the school year. As part of the Challenge Program, I designed and implemented workshops for high school teachers and counselors on curriculum development, counseling and teaching skills. In addition, I taught graduate courses in counseling and guidance.

While serving as Chairman of the National Advisory Council on Vocational Education and as Vice Chairman of the National Advisory Council on Equality of Educational Opportunity, I had the opportunity to interact with elementary and secondary education practitioners throughout the United States. Because both vocational education and desegregation place heavy emphasis on elementary and secondary education, and because they impact on other issues in this field, service on these advisory councils provided insight into a broad spectrum of issues and challenges in elementary and secondary education.

The remainder of my experience in education has provided the opportunity to develop and sharpen management and leadership skills. These experiences include serving as Provost (Chief academic officer) of the San Diego Community College District, the third largest community college district in the country; President of the San Diego Educational Cultural Complex and Vice President for Development at Tuskegee Institute. In addition, I served as Associate Director for Domestic and Antiproverty Operations at the ACTION agency. In this position, I was responsible for the management of all domestic programs of the agency, which included responsibility for nine regional offices, 48 State offices, and seven national program offices. Through these experiences I have gained skills that will allow me to put into place systems to insure the effective and efficient operation of the Division of Elementary and Secondary Education and to provide leadership nationally.

2. Please describe your responsibilities as Assistant Secretary for Elementary and Secondary Education and your role in decision-making within the Department of Education.

Answer: The Assistant Secretary for Elementary and Secondary Education serves as the principal advisor to the Secretary of Education on all matters related to elementary and secondary education. In that role, the Assistant Secretary manages several Federal elementary and secondary education programs including Chapter 1 (Education for the Disadvantaged), Migrant Education, Indian Education, Impact Aid, Follow Through, Women's Educational Equity Act, Title IV of the Civil Rights Act, and Elementary and Secondary Block Grants. The Assistant Secretary, through staff of the office, also serves as the principal contact for State and local educational officials requesting assistance in the areas of elementary and secondary education.

3. Your disclosure form submitted to the committe shows significant experience in vocational education and little experience in elementary and secondary education. What have you or will you do to acquaint yourself with the problems in elementary and secondary education?

Answer: As I stated in response to an earlier question, my experience in vocational education required and fostered an awareness of a broad spectrum of issues in elementary and secondary education. The same is true of my experience with the National Advisory Council on Equality of Educational Opportunity.

I have worked with secondary school students to assist them in correcting reading and math deficiencies in preparation for a successful college experience. I have also worked closely with the counselors and teachers of these young people. In addition, I have taught graduate courses in counseling and guidance in which the majority of my students were preparing to become high school counselors.

I have begun meeting with the professionals in the Office of Elementary and Secondary Education and plan to meet with professionals in the field to gain further insight into the problems in Elementary and Secondary Education.

4. As you know, Congress chose to veto the Department's regulations to implement Chapters 1 and 2 of the Education Consolidation and Improvement Act (ECIA). The Department subsequently promised to submit to Congress revised regulations with clarifications of the applicability of GEPA to the Chapter 1 and 2 regulations.

   A. When will the Department submit the revised regulations to Congress?

   B. What is the projected date for the publication of the revised regulations in the Federal Register?

   C. Please describe the content of the revised regulations and the differences between the revised regulations and the earlier regulations vetoed by Congress?

D. What has your role and the role of your office been in developing the ECIA regulations? What will your role be in the future?

5. Earlier the Department alleged that the provisions of GEPA did not apply to regulations promulgated under ECIA. Please specify which sections of ECIA supercede the provisions of GEPA.

Answer: The Department of Education is considering various alternatives for resolving the issues concerning the regulations for Chapters 1 and 2 of the ECIA, including additional regulatory language which will generally support the concept of GEPA coverage, with the exception of a very few sections which appear to have been clearly contradicted or overridden by the express language of ECIA other applicable statues.

We expect resolution of the issues within 10 - 14 days.

The Office of Elementary and Secondary Education has been working with the Office of General Counsel to develop these regulations. The Office of General Counsel has the primary responsibility for providing a legal interpretation of the intent of Congress with regard to these provisions.

6. Since Congress vetoed the Department's ECIA regulations, under what authority are school districts, who have received funds under ECIA, proceeding?

Answer: The ultimate authority for the operation of these programs is the law as passed by Congress. Irrespective of which or whether regulations are in place, the statutory provisions are the touchstone of compliance by recipients.

7. As you know, the Emergency School Aid Act (ESAA) was consolidated into Chapter 2 of the ECIA.

A. How will the Department ensure that financial assistance continues to go to school districts for desegregation purposes?

B. What effect does the consolidation have on local desegregation plans?

Answer: Under the Education Consolidation and Improvement Act (ECIA), Chapter 2, both State and local educational agencies may spend their block grant funds for desegregation activities. The Act also specifies that local educational agencies shall have complete discretion in determining the use of their funds at the local level. This provision precludes the Department from ensuring that financial assistance continues to go to school districts for desegregation purposes.

However, several States have included children undergoing desegregation as "high cost" children and this designation allows the State educational agency to allocate more money to local educational agencies undergoing desegregation. To date, we have approved six State formulas which include desegregation activities as a "high cost" factor: California, Michigan, New York, New Jersey, Washington and Connecticut.

Local educational agencies began using ECIA, Chapter 2 funds for the first time in September of this year. We are uncertain of the effect of the consolidation on local desegregation plans because the Act does not require States to describe the use of ECIA funds at the local level to receive funds for the State.

We have, however, planned evaluations of the block grant program which will give us information about the use of block grant funds at both the State and local levels. We will, of course, share those findings with Congress when the studies are completed.

8. Since the Department's ECIA regulations have been vetoed, will the Department continue to provide funds to the cities for ESAA funding? Please explain the reasons for your answer.

Answer: The Fiscal Year 1982 Appropriation for block grants included funds which would otherwise have been appropriated under the Emergency School Aid Act (ESAA). With the inclusion of ESAA in the block grant, the Department no longer has a separate legislative authority under which to provide monies to the cities for ESAA funding.

9. Do you favor the elimination of the Department of Education? Please explain the reasons for your answer.

Answer: President Reagan has proposed to abolish the Department of Education and replace it with a Foundation for Educational Assistance. I concur with that plan and believe it is consistent with this Administration's strong emphasis on State and local control of education and on a return of educational decision-making to those directly affected — parents, teachers and educational administrators. The Foundation will retain selected programs and functions which are appropriate to a limited Federal role. It will exercise a role of coordination, communication and leadership without unnecessary Federal intrusion. Most importantly, the Foundation will continue our commitment to continuing support for disadvantaged and handicapped children and to helping needy students and their families meet the rising costs of college through grants, loans and work-study.

10. As you know the Women's Educational Equity Program is under your jurisdiction. Several members of Congress have expressed concern about the operation of this program during the last year. Serious charges of political abuse of this program have been made. I am quite concerned that this program is not being operated in accordance with its legislative mandate.

    A. What steps will you take to ensure that the regulations and application review process under the Women's Educational Equity Program will be strictly followed?

    B. I understand that during the last year the Director of this program, Dr. Leslie Wolfe, was detailed from her post. This action has an adverse affect on the program. How will you ensure that Dr. Wolfe will be able to continue to effectively perform her duties in the future?

Answer: All programs under the jurisdiction of the Assistant Secretary for Elementary and Secondary Education will be operated by the regulations which govern those programs. The WEEA review process will be undertaken in an orderly, fair and consistent manner.

The detail of Dr. Leslie Wolfe for a ninety-day period during this fiscal year was occasioned by a management need in another part of the Department of Education. The detailing of senior management officials occurs throughout this agency when a manager is identified as having the skills necessary to fill a temporary management need. While we strive to move managers with a minimum of disruption to program operations, it is sometimes necessary to reassign or detail them during funding cycles. If it becomes necessary to detail any program manager during a program funding cycle, I can assure you we will take whatever steps are necessary to provide the leadership and skills necessary to complete the funding cycle in accordance with standard practice and regulations.

11. As you know, the Administration attempted to consolidate the Women's Educational Equity Program into the Chapter 2 Block Grant last year and attempted to eliminate the program this year. Congress rejected both proposals and continued to fund the program. Can you assure me that you will continue to administer this program in accordance with its legislative mandate despite past and future Administration efforts to eliminate it?

Answer: The Administration has proposed the elimination of the Women's Educational Equity Act program as well as several other categorical programs in the Office of Elementary and Secondary Education. We believe these programs should be a part of the block grant program and that the purposes of the block grant and the activities authorized are broad enough to permit State and local educational agencies to support these activities with block grant funds.

We are aware, however, that the Congress did not include the WEEA program in the block grant appropriation and has appropriated funds under the Women's Educational Equity Act instead. We have operated the program in accordance with its legislative mandate in fiscal year 1982 and are committed to implementing that mandate in any year when funds are separately appropriated. This would also be true with any other programs we are proposing to eliminate.

The CHAIRMAN. Thank you, Mr. Davenport. We appreciate it.
Mr. Bauer, please proceed.

STATEMENT OF GARY L. BAUER, NOMINATED TO BE DEPUTY UNDER SECRETARY FOR PLANNING AND BUDGET, DEPARTMENT OF EDUCATION

Mr. BAUER. Mr. Chairman, it is my pleasure to be here today. I will also submit my statement for the written record. However, there is one portion of this statement that I would like to take a few moments to emphasize this morning because of the importance that I attribute to it.

Over the last few weeks, as I reviewed a variety of material to prepare for this hearing, I took time to read the statement that Secretary Bell made to this committee on the occasion of his confirmation hearing in January 1981. At that time, the Secretary summarized better than I could the key philosophy which I believe guides this committee and guides those of us at the Department of Education, regardless of the differences in opinion we may at some times have.

The Secretary said, "I am committed to the students of this Nation. Every child is born with a promise and with a dream. As our children progress through elementary and secondary schools, and then on to postsecondary education, they have the opportunity of fulfilling that dream. I feel a strong responsibility to the parents and educators of this country. However, my major responsibility is to our students in strengthening our educational system and moving them closer to their dreams."

In the heat of political confrontation over the last 2 years, much time and attention have been devoted to the differences the Reagan administration and the Department of Education have had with some members of this committee and the Congress generally. There have been charges and countercharges, claims and counterclaims. Such is the nature of our democratic system that strong men and women of all persuasions have the right, indeed the obligation, to debate the great issues of the day.

It is imperative, however, that in the course of that debate we not forget that all of us share a basic commitment to the parents and students of this Nation to aid them in fulfilling the dream of which Secretary Bell so eloquently spoke. We may sometimes disagree on the best way to accomplish it, but I do not believe we disagree on the basic goal.

As President Reagan said in his 1981 Proclamation of American Education Week, "As a nation, we are dedicated to excellence in education. It means a better life for our children as individuals, and it further secures the liberty which we cherish."

I hope in the months ahead, if I am fortunate enough to be confirmed by this body, that together we can meet the challenge of excellence in education.

Thank you very much, Mr. Chairman.

[The prepared statement and biographical sketch of Mr. Bauer along with questions and responses follow:]

Gary L. Bauer
U.S. Senate Confirmation
Committee on Labor and Human Resources
Subcommittee on Education, Arts, and Humanities
September 22, 1982

Thank you, Mr. Chairman. It is my pleasure to be here today with the Committee on Labor and Human Resources. I am looking forward to meeting with each of you personally in the days ahead and working closely with you in the months ahead as we attempt to develop policy that fulfills our mutual commitment to the students and parents of this Nation.

The job for which I'm seeking your confirmation has a wide range of responsibilities. The Deputy Under Secretary of Education for Planning, Budget and Evaluation:

- Develops the framework for policy questions to be addressed and presented to the Secretary;
- Manages the budget and helps the Secretary set the Department's budget priorities and, the subsequent Administration request to you here in the Congress; and
- Provides the analytic capability for assessing the quality of education programs.

These three functions assist the Secretary in shaping his programs for review by the Office of Management and Budget and the Congress. I am looking forward to working with the Congress and specifically this Committee in that review process.

11-834 O - 83 - 6

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It is imperative, however, that in the course of that debate we not forget that all of us share a basic commitment to the parents and students of this Nation to aid them in

fulfilling the dream of which Secretary Bell so eloquently spoke. We may sometimes disagree on the best way to accomplish it but we do not disagree on the basic goal. As President Reagan said in his 1981 Proclamation of American Education Week, "As a Nation, we are dedicated to excellence in education. It means a better life for our children as individuals, and it further secures the liberty which we cherish."

I hope in the months ahead, if I am fortunate enough to be confirmed by this body that together we can meet the challenge of excellence in education.

I would like to take this opportunity to share with the Committee one other thought which has become apparent to me in the brief four weeks I have been with the Department of Education. There are social and demographic trends in place in America that will have, in fact are having, now a profound impact on our educational system and this impact will continue regardless of what any of us in Washington do.

I would like to share some new data on enrollment decline between 1971 and 1981 in America's larger school systems. According to Education Research Service:

- Enrollments in public elementary, junior high and high schools in New York City declined 18 percent between 1971 and 1981;
- In Los Angeles, enrollment dropped 16 percent;
- In Chicago, enrollment was down 23 percent;

- Public school enrollment between 1971 and 1981 was down 28 percent in Philadelphia, 18 percent in Houston, 25 percent in Dallas, 37 percent in Baltimore;

- Down 30 percent in Memphis, 26 percent in Montgomery County, Maryland, 30 percent in Prince Georges County, Maryland, and 37 percent in Milwaukee.

In short, this is the main reason why schools closed between 1971 and 1981. This is why teachers have been, and are being let go and this is why colleges of education in our Nation's universities have closed.

The United States had over 117,000 public schools in 1959. This number dropped to 90,000 public schools by 1970, and it's now down to about 86,000 public elementary and secondary schools in the entire Nation.

In 1960, children under 14 years of age accounted for 30 percent of the total population of the United States. By 1980, they accounted for only 21 percent, and the Census Bureau projects a further decline to 20 percent in the year 2000. Young Americans are not only having fewer children than their parents did, they're staying single longer.

The story is the same for higher education. Since 1960, more than 200 colleges or university branches have closed. With the number of college-bound high school seniors projected to decline by 25 percent over the next ten years, scholars suggest as many as 200 more colleges may shut down during the decade of the 1980's for the sheer lack of students.

Clearly, our Nation's colleges and universities will become increasingly dependent on adult education, on part-time students, and on men and women returning to school to refine their skills or perhaps learn new ones.

From the Federal standpoint, translating these new demographic facts of life into cost-efficient programs for education in the decade of the 1980's demands considerable attention be devoted to planning, budget and evaluation. I am looking forward to working with this Committee to meet that challenge.

Thank you very much for your time and consideration. I would be happy to answer any questions you may have.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: Bauer (LAST) Gary (FIRST) Lee (OTHER)

Position to which nominated: Deputy Under Secretary for Planning, Budget and Evaluation Date of nomination: September 8, 1982

Date of birth: 4 (DAY) 5 (MONTH) 46 (YEAR) Place of birth: Covington, Kentucky

Marital status: Married Full name of spouse: Carol Hoke Bauer

Name and ages of children: Elyse Anne Bauer 4½ years old

Sarah Elizabeth Bauer 1 year old

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Georgetown College	1964-1968	B.A.	May 1968
Georgetown University Law	1968-1973	J.D.	June 1973

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Cook Memorial Scholarship to Georgetown Law, 1973

Dean's List Georgetown College, 6 Semesters

Church Scholarship Georgetown College, 2 years

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
U.S. Chamber of Commerce	Member, Task Force on Privacy	1978-1980

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

1/69-1/71 Republican National Committee, Wash., D.C., Research/Writer.

1/71-8/73 Same as Above, Director of Opposition Research - Directed a research staff of 10 in a wide variety of domestic and foreign policy issues.

8/73-10/76 Direct Mail/Marketing Association, Wash., D.C., Assistant Director of Government Relations; number two man in Wash., D.C. office, coordinated State and Federal Government relations.

10/76-8/80 Same as Above, Director of Government Relations; in charge of legislative activities on State and Federal level.

8/80-11/80 Reagan-Bush National Headquarters, Senior Policy Analyst; writing, research, strategy input.

11/80-1/81 Office of the President-Elect, Wash., D.C., Assistant Director for Policy, Community Services Administration; responsible for survey of Department's activities.

1/81-11/81 White House Office of Policy Development, Policy Analyst.
11/81-6/82 Same as Above, Policy Advisor.
6/82-8/82 Same as Above, Deputy Assistant Director of Legal Policy; in all three capacities advised the President on a variety of domestic issues.

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

None

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Association Management Magazine - "Fighting Government Regulation: Who Says You Can't Win" October 1977

Stars & Stripes - "Requiem" May 1980

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

8/80-11/80 Reagan-Bush National Campaign Headquarters, Arlington, Virginia

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Previous employer was the White House; all financial connections have been severed.

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No such plans.

3. Has a commitment been made to you for employment after you leave Federal service?

No

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

Yes

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

No such arrangements, agreements or dealings

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

From October 1976 to August 1980 in my position at the Direct Mail/ Marketing Association, I assisted in the organization of "grass-roots" lobbying activities related to postal issues and the regulation of commercial and charitable mailing lists as that related to the larger issue of privacy regulations. Worked closely with the Commission on Privacy chaired by David F. Linowes.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

Not applicable

QUESTIONS FOR MR. GARY BAUER:

MR. BAUER, YOU HAVE CORRECTLY STATED IN YOUR WRITTEN REMARKS THAT THERE ARE FROM TIME TO TIME BURNING DIFFERENCES ON THE NATURE OF THE FEDERAL EDUCATIONAL ROLE AND THE MANNER IN WHICH THE FEDERAL GOVERNMENT SHOULD ADDRESS THE PROBLEMS DEEMED WITHIN ITS RESPONSIBILITY. A CERTAIN MEASURE OF THIS DISAGREEMENT FLOWS FROM DIFFERENCES IN PHILOSOPHY OVER THE PROPER FEDERAL ROLE IN A TRADITIONALLY STATE AND LOCAL ENTERPRISE. BUT TO A SIGNIFICANT DEGREE THE DISPUTES ARE THE RESULT OF A DEARTH OF FACTS, OF A LACK OF REAL, CREDIBLE EVALUATIVE EVIDENCE ON WHICH CONGRESS AND THE EXECUTIVE CAN REASONABLY ASSESS THE EFFECTIVENESS AND WORTH OF THOSE EFFORTS FUNDED BY THE FEDERAL GOVERNMENT. TO THE EXTENT WE LACK THIS TYPE OF INFORMATION WE ARE VULNERABLE TO THE PRESSURES BOTH OF SPECIAL INTERESTS AND OF THOSE ON ALL SIDES WHOSE BUDGETARY RECOMMENDATIONS ARE NOT ADEQUATELY INFORMED BY THAT CONCERN FOR STUDENTS WHICH YOU REFER TO IN YOUR TESTIMONY. IN THE ABSENCE OF FACTS, RHETORIC AND PARTISANSHIP RULE.

THUS I SEE AS ONE OF YOUR MAIN CHALLENGES THE IMPROVEMENT OF THE DEPARTMENT'S EVALUATIVE CAPACITY AND QUALITY. I FOR ONE WOULD LIKE TO SEE MORE ANALYSIS OF THE EFFECTIVENESS OF FEDERAL PROGRAMS IN ACHIEVING THEIR STATED GOALS AS WELL AS OF THIER SOMETIMES UNINTENDED SIDE EFFECTS. I WOULD LIKE TO SEE THESE ANALYSES, WHETHER PERFORMED BY DEPARTMENTAL PERSONNEL OR CONTRACTED OUT, BECOME STANDARDS OF SCHOLARSHIP AND FAIRNESS, RESPECTED BY ALL. THUS I ENCOURAGE YOU TO ENSURE THAT THE DEPARTMENT IN THIS VITAL FUNCTION WILL DEVELOP ACCURATE ANALYTICAL METHODS AND REPORT ALL FINDINGS, REGARDLESS OF WHETHER OR NOT THEY COMPORT WITH PRECONCEIVED NOTIONS OF WHAT THE RESULTS SHOULD BE. IF IT IS NOT POSSIBLE TO MEASURE EFFECTIVENESS RELIABLY, OR IF THERE ARE WEAKNESSES IN THE DATA OR RESULTS, THESE FACTORS SHOULD BE CLEARLY IDENTIFIED.

COULD YOU PLEASE SHARE WITH US YOUR VIEWS ON THESE ISSUES?

RESPONSE TO SENATOR ORRIN HATCH'S QUESTION TO GARY L. BAUER

Last November, you received the Department of Education's Annual Evaluation Report for fiscal year 1981. This was the tenth report in a series begun to meet the Office of Education's internal information needs, and continued to meet the mandates in Section 417 of the General Education Provisions Act, as amended. The Annual Report is a compendium of the best available information and analysis regarding the programs administered by the Department, and is our most important vehicle for transmitting all valid evaluation findings to the Congress. Supplementing the Annual Report are the mandated reports and analyses submitted to you as prescribed in legislation or otherwise required by the Congress. Still another vehicle are the Executive Summaries sent to you upon completion of major evaluation studies.

There has been a significant change in recent years in the nature of evaluation and policy analysis in the Department of Education. From larger-scale, long-term studies of specific programs, emphasis has shifted to short-term, rapid-response studies and analyses which cut across groups or categories of Department programs (e.g., student financial aid, program consolidation) or address issues that may not be directly related to current programs (e.g., tuition tax credits). This shift in emphasis results in large part from the Administration's policy of reducing the Federal presence in education and reducing the administrative and cost burden of Federal programs.

I intend to do everything possible to enable us to begin to develop and maintain data bases adequate to the informational needs of the Department

and the Congress. For example, I would like to move toward improved capacity and quality of policy analysis in such areas as institutional fiscal health (What are the distribution patterns of Federal funds to institutions? What are the effects of those funds? What are the prospects for institutional finance during the next five to ten years?); private schools (What are the links between public school districts and private schools? How have public agencies provided assistance to private school students? What role have Federal and State programs played in assisting or hindering development of these links?); and beneficiaries and costs of Federal programs (Who benefits from Federal programs by characteristics such as geographic area, minority status, and income level? What are the administrative costs of those programs?).

I should also note that the Administration's budget request for fiscal year 1983 contains $1 million for evaluation of the Chapter 2 program under the Education Consolidation and Improvement Act. These funds will help us meet the Secretary's commitment to the Congress to report on the results of program consolidation and the block grant under Chapter 2.

As regards the evaluation and analysis staff, I assure you that every effort will be made to recruit the most capable staff persons and the most capable contractors that the education "market place" has to offer. Further, I have made it a personal goal to ensure that policy analysis and reporting will be of the highest quality in its technical standards, objectivity, comprehensiveness, and fairness, which will include full disclosure of deficiencies in the data or in the analyses that my staff or their contractors have identified.

QUESTION BY SENATOR EDWARD M. KENNEDY TO GARY L. BAUER

1. Please describe your responsibilities as Deputy Under Secretary for Planning, Budget and Evaluation and your role in decision-making within the Department of Education.

Response

The role of Deputy Under Secretary for Planning, Budget and Evaluation is to serve as principal advisor to the Secretary on all matters related to Departmental program plans and budgets. The very nature of the functions assigned to this position require that the Deputy Under Secretary be intimately involved in the decision-making process within the Department of Education. As principal advisor, the Deputy Under Secretary meets regularly with the Under Secretary and Secretary and other members of the Secretary's senior staff.

The Deputy Under Secretary is responsible for several critical functions within the Department.

- o To direct and coordinate the formulation, presentation and execution of all phases of Departmental program budgets;
- o To coordinate planning, budgeting and policy discussions on matters relating to budget requests with the Office of Management and Budget, the Executive Office of the President and the Congress;
- o To direct analytical studies on the economic, social and institutional impact of existing and proposed education policies and to provide advice on the formulation of Departmental policies, legislative proposals and program operations; and

- To develop, coordinate and monitor a planning system for supporting the Department's long-term strategies and financial plans.

In carrying out these functions, the Deputy Under Secretary provides overall direction, coordination and leadership to the two principal organizations within the Office: the Budget Service, which focuses on issues and policies relating to Departmental budgets, and the Planning and Evaluation Services, which focuses on issues and policies that may or may not touch on budgets, as well as evaluation of existing and proposed programs.

QUESTION BY SENATOR EDWARD M. KENNEDY TO GARY L. BAUER

2. What changes in Departmental policy, procedure or structure will you recommend?

Response

The Department is in the process of developing the President's Fiscal Year 1984 budget. As Deputy Under Secretary, I will be intimately involved in recommending policies which best carry out the Administration's plans for education in the coming year. Because I have only recently arrived at the Department, I have taken the position of careful observer and learner, and will reserve recommending any changes until such time as I have a thorough understanding of the programs, current policy, and interests of the Administration, Congress and the education community.

QUESTION BY SENATOR EDWARD M. KENNEDY TO GARY L. BAUER

3. Do you favor the elimination of the Department of Education? Please explain the reasons for your answer.

Response

The Administration's budget for fiscal year 1983 recommended eliminating a separate cabinet level Department and replacing it with a Foundation for Education Assistance. I believe the reasons for this shift are sound and sensible both from the perspective of good management and program policies.

The underlying propositions which explain this move to a Foundation are seen in the Administration's commitment to reduce the size, cost and burden of government and to define a Federal role for education which expresses our Nation's historic interest in quality education and respects our heritage of educational diversity, local control and equal access to opportunity. I believe that a Foundation would enhance the efforts to achieve this goal. It would provide a more flexible, adaptable structure to accommodate the changes necessary to strengthen the control by States, local governments and private institutions over their own responsibilities.

Let me describe a few important features which are planned for the Foundation:

- The Foundation would be headed by a Presidentially appointed and Senate confirmed Director;
- It would administer a full range of elementary and secondary education and student aid programs as well as maintain a core of continuing informational, statistical and research services for education;

- Civil rights negotiations and compliance activities would continue to be administered by the new Foundation;
- It would transfer 28 Federal education programs which are less related to school-based or student financial concerns than to the purpose of other agencies;
- When enacted, it would substantially reduce present and future regulatory burdens by circumscribing the amount of regulations the Director can issue. It would create administrative savings by reducing the number of program offices, the number of senior officials and the number of staff required by traditional regulatory activity.

While we may disagree on the specifics, I know that our interests will remain with providing the best structure to serve the children and youth of this Nation. It is my belief that the Foundation is one way to achieve this and to support a healthy and productive education system.

The CHAIRMAN. Thank you, Mr. Bauer.
Mr. Heatherly, please proceed.

STATEMENT OF CHARLES L. HEATHERLY, NOMINATED TO BE DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION

Mr. HEATHERLY. Thank you, Mr. Chairman.
I also will enter my statement for the record.
The CHAIRMAN. Without objection, all statements will be entered into the record following each nominee's oral testimony.
Mr. HEATHERLY. I would like to take one moment to emphasize that management in the Department of Education is a delegated responsibility. The leadership role of the Secretary and the Under Secretary is very important. The teamwork among all the senior officers, program officers, is essential.
Having served in the Department this past year in the Secretary's office, I believe I have an understanding of the major issues confronting the Department and the interrelationships between program operations and management functions. I bring to this role my total commitment and full energies and look forward to working with my colleagues.
The CHAIRMAN. Thank you so much.
We congratulate all of you for these nominations. We look forward to working with you and having the committee work closely with you.

What I would like to do is submit questions in writing to each of you and give you an opportunity to respond. I personally have found that sometimes asking questions at these nomination hearings does not accomplish as much as submitting them in writing.

[The prepared statement, biographical sketch, and questions with responses of Mr. Heatherly and additional material supplied for the record follow:]

11-834 O - 83 - 7

STATEMENT BY

CHARLES L. HEATHERLY

Mr. Chairman, I am honored to come before this Committee as the President's nominee for the position of Deputy Under Secretary for Management in the Department of Education. I welcome the opportunity to present my credentials for this position and my philosophy and goals as they relate to the mission of the Department of Education and the priorities of this Administration.

The Office of Management, which I am nominated to head, has responsibility for all administrative services and operations within the Department. These operations include services contracted with GSA, personnel management, organizational management, financial management, ADP systems, training and executive development, oversight of the grant and contracts process and the administration of the Department's $227 million Salaries and Expenses budget. The Deputy Under Secretary for Management is assisted by two deputies - the Comptroller and the Administrator for Management Services - who have line responsibility for the principal functions listed above. Reporting directly to the Deputy Under Secretary for Management is the Director of Equal Employment Opportunity, the Director of Small and Disadvantaged Business Utilization and the Office of Management's administrative officer. As of August 1, 1982, there were 801 employees in the Office of Management, about 14% of the Department's total staff of 5,720. (Compared to 7538 in January 1981).

The mere recitation of the responsibilities of the Office of Management points to many of the problems inherited by this Administration shortly after the Department was established as an independent entity in May, 1980. Much remains to be done to streamline the bureaucracy and bring our management systems up to acceptable levels of efficiency and responsiveness.

Among the Administration's top management priorities are improved debt collection, better cash management, upgraded ADP and management information systems, better planning and coordination of S&E expenditures, improved internal control procedures and more efficient utilization of human resources. A personal priority is making the newly mandated performance appraisal system work - which means holding both managers and employees accountable for meeting performance objectives reflecting both mandated program functions and policy priorities.

I bring to this assignment seventeen years of experience in the field of education and a conviction that American education will be better served by a reduced federal role leading to expanded state and local responsibility. My eight years' experience at the Intercollegiate Studies Institute brought me into direct contact with students, faculty and administrators at hundreds of colleges and universities. In the six years spent managing the Education

Department of the National Federation of Independent Business, I worked closely with vocational student organizations as well as business schools and management associations. Finally, my responsibilities as Director of Special Projects for the Heritage Foundation provided me with a broad knowledge of the structure and operations of the executive branch of the federal government.

In June, 1981, I joined Secretary Bell's staff as director of the Executive Secretariat, a unit in the Office of the Secretary which serves as the central point of control, coordination, and analysis of all official correspondence and policy documents requiring the Secretary's or Under Secretary's review or decision. Serving the Secretary in that capacity for nine months, I developed an in-depth understanding of the policy, budget and management issues confronting the Department. I also developed close working relationships with the senior staff of this Department and other federal agencies and White House officials. Those relationships should prove invaluable to me in administering ED's Office of Management.

Management of the Department of Education is, of course, a delegated responsibility. The leadership role of Secretary Terrel Bell is critical, and the Deputy Under Secretary for Management must at all times provide the Secretary and Under Secretary with reliable information and sound counsel, anticipating problems and improving the infrastructure of management so that they can concentrate their energies on policy development, regulatory reform, and legislative initiatives.

Mr. Chairman, I will be pleased to answer any questions you or other members of the Committee may have.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: Heatherly (LAST) Charles (FIRST) Lloyd (OTHER)

Position to which nominated: Education Department Deputy Under Secretary for Management Date of nomination: September 3, 1982

Date of birth: 6 (DAY) 6 (MONTH) 42 (YEAR) Place of birth: Elizabethtown, Tenn.

Marital status: married Full name of spouse: Linda Dutton Heatherly

Name and ages of children: Christopher Lloyd 9
David Elliot 6
Laura Caroline 5

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	University of Arizona	1960-1965 1966	A.B.	1965 --
	Arizona State University	1965 1967 1968-69		 --
	Villanova University	1965		
	Claremont Graduate School & Unv. Center	1971-1973	M.A.	1975

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Regents' Scholarship, University of Arizona 1960-61

PHI ETA SIGMA, PI SIGMA ALPHA

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
California Pro Life Council	President	1975-76
Governmental Research Council of San Mateo County (CA)	Exec. Committee	1977-78
The Philadelphi Society	Trustee	1979-82
Public Research Syndicated	Trustee	1980 to present

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

1965-66, 1967-68, 1969-73 Intercollegiate Studies Institute, Inc.
14 S. Bryn Mawr Ave., Bryn Mawr, PA.
Regional Field Director

1973-79 National Federation of Independent Business
150 West 20th Avenue, San Mateo, CA 94403
Director of Education

1979-1981 The Heritage Foundation
513 C Street, NE, Washington, D.C. 20002
Director of Special Projects and Director of Resource Bank

June 1981 to present US Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

6/81 - 6/82 Executive Secretary to Honorable T.H. Bell

6/82 to present Administrator for Management Services and
Acting Deputy Undersecretary for Management

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

(1975-78) National Advisory Council for Career Education

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Mandate for Leadership, The Heritage Foundation, 1981 (editor)

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

$100 contribution to Mike D. Antonovich for Lt. Governor, (1978)

$100 contribution to Mike D. Antonovich for Co. Supervisor, (1980)

$100 contribution to Republic National Committee, (1980)

$50 contribution to Stan Parris for Congress, (1980)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No

3. Has a commitment been made to you for employment after you leave Federal service?

No

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

Yes

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

1. Testified in 1975 before House Education & Labor Committee on behalf of proposed "Career Education Incentive Act."

2. Lobbied during 1974-78 on behalf of Human Life Amendment and other pro-life legislation at state and federal levels.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

I believe I have no remaining conflicts of interest, actual or potential.

ANSWERS TO QUESTIONS BY SENATOR ORRIN HATCH

1. Mr. Heatherly, among your stewardships is that of the Office of Inspector General, one of the most valued operations in the Department. The Inspector General's office has been favored in its budget because of a feeling in Congress that many millions of dollars needed for providing services for children are squandered through fraud, mismanagement of funds or facilities, inadequate accounting controls and the like. I trust it is your intention to continue the strengthening of the Inspector General's ability to identify these problems, and to strengthen the Department's resolve to correct them after they are uncovered?

Are you aware of a recent GAO report repeating a longstanding list of weaknesses in the administration of the Guaranteed Student Aid Program and making numerous recommendations for improved accounting controls? What response is the Department making to these recommendations?

ANSWER: The Office of Inspector General is an independent organization reporting to the Secretary and as such is not under my direct stewardship. However, to the extent that I am responsible for the overall salaries and expense budget in the Department, I am able to support the Office of Inspector General. As Deputy Under Secretary for Management, it is my intention to ensure that the Office of Inspector General has the resources it needs to identify and correct cases of fraud, abuse and mismanagement. Also, as the Department official responsible for audit follow-up, I plan to improve the Department's responsiveness to problems identified by the Inspector General and the GAO.

We have received and reviewed the recent GAO report on the Student Loan Insurance Fund. On September 10, 1982 the Secretary forwarded the Department's response to the Director of OMB, the Comptroller General, and appropriate Congressional offices. Our response identifies corrective actions that we are taking on the report's recommendations, and a plan of action attached to the report outlines and prioritizes various action steps designed to address specific deficiencies cited in the report. We are fully committed to implementing life-cycle management activities in all aspects of the administrative support system for the Guaranteed Student Loan Program, and system modifications under a new GSL processing contract will be implemented in the third quarter of fiscal year 1984. Those modifications will correct all identified deficiencies. Meanwhile, we are initiating a total redesign of the administrative support system not only for the Guaranteed Student Loan program but for all Title IV programs, and an effort is underway to address concerns raised in this and other GAO reports pertaining to the interface between Treasury, the centralized general ledger reporting system and the SFA system.

Our response points out that we are fully committed to improving the automated systems of the Department as necessary to ensure that our financial accounting and reporting in all areas are in accordance with acceptable accounting and internal control standards and that long-standing deficiencies such as those cited in the GAO report are corrected.

I have established an internal management system for tracking the corrective actions we are taking on the GAO report and have asked that a status report be prepared for my review by December 15, 1982. I assure you that I am working to improve the Department's accounting controls in this and other areas as well.

I'm attaching a copy of our response to the GAO report for your reference.

2. There have been charges recently, as there have been under preceding Administrations, that the makeup of grant and contract review panels has been improperly slanted to one side of the political spectrum. Are you committed to ensuring that proposals are judged on their educational value and are not approved because they reflect a reviewer's or program administrator's bias, or because they will be conducted by an organization supported by the reviewers or administrators?

ANSWER: I am strongly committed to the goal of ensuring that all proposals submitted to the Department of Education are judged on the basis of educational and technical merit, and to ensuring that independent, objective reviews are conducted for all such proposals. In order to accomplish this goal, applications are evaluated, in most programs, by at least three reviewers, two of whom must be non-federal field readers. Well-qualified persons are recruited as field readers to ensure a thorough, independent, objective review of these applications. This pool of available talent is constantly expanded to ensure a fresh perspective and objectivity in the evaluation process. To this end, we piloted a Field Reader Outreach Program this past year, the purpose of which was to recruit well-qualified individuals from all regions of the country. This pool of experts will be continuously expanded to ensure the broadest participation by the education community.

We are also concerned that individual reviewers do not participate in the evaluation process if they have a conflict of interest with respect to any application submitted under a particular program. Regulations have been published which state those circumstances which would place a reviewer in a conflict of interest situation and further describe those procedures to be followed if extreme circumstances require that such an expertise is required. In these instances, the Secretary of Education must approve the use of that particular reader. To my knowledge, the Department has not had to use that provision of the regulation this past year, nor do we expect to have to use it in the future. We will continue to enforce the conflict of interest standards and to strengthen the peer review process to assure the most equitable and professional evaluation process possible.

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

SEP 17 1982

TO : Ralph Olmo, Comptroller

FROM : Frank Ryan, Acting Director
Organizational Performance Service

SUBJECT: Comptroller General's Report, "Adverse Opinion on the Financial Statements of the Student Loan Insurance Fund for the Fiscal Year Ended September 30, 1980 (GAO/AFMD-82-52, July 8, 1982).

Attached is the Department's response to the subject report which was signed by the Secretary on September 10, 1982.

This Office has responsibility for follow-up on all GAO and internal audit reports on behalf of the Deputy Under Secretary for Management. After reviewing the Department's response, we have idenitified several key action steps which we intend to include in our tracking system. These steps and the proposed target dates are as follows:

Key Action	Target Date
1. Evaluate OSFA's staffing requirements for accounting personnel. (Unassigned)	Open
2. Develop written operating procedures describing the interface and document flow between FMS, OSFA and Treasury. (FMS)	Nov. 30, 1982
3. Develop detailed operating procedures for OSFA accounting operations. (OSFA)	Jan. 31, 1982
4. Train accounting personnel. (FMS and OSFA)	Dec. to Mar. 83
5. Develop RFP for GSL contract that addresses all known accounting related deficiencies. (OSFA)	Open
6. Complete user needs identification and system design specification and begin competitive bidding process for total system re-design. (OM and OSFA)	4th Qtr 1983

In order that we may report to the DUSM on the status of outstanding GAO recommendations, we would appreciate being advised by December 15, 1982 as to the status of key action steps 1, 2, 4, and 6 for which your Office is responsible. Your report should indicate whether target dates beyond the date of the status report will be met and, if not, the nature of any problems being encountered. Status reports should continue to be submitted quarterly until all corrective actions have been completed.

It is expected that any proposed corrective action not included as a key action will also be implemented. Follow-up on these actions will be included in future follow-up/verification reviews. Status reports on action steps 3 and 5 will be requested from OSFA.

If you have any questions or we can be of assistance, please contact Molly Hockman on 472-7424.

Attachment

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

SEP 10 1982

OFFICE OF THE SECRETARY

MEMORANDUM FOR: Charles Heatherly

SUBJECT: Comptroller General's Report, "Adverse Opinion on the Financial Statements of the Student Loan Insurance Fund for the Fiscal Year Ended September 30, 1980"

A copy of the Department's comments on the subject report is attached. The response was transmitted today to recipients specified in OMB Circular A-50.

As you are aware, I am thoroughly committed to ensuring that GAO reports are resolved in an expeditious manner. Therefore, in your capacity as the Department's audit follow-up official, please ensure completion of all actions promised with respect to the recommendations set forth in the report. Thank you for your prompt attention to this matter.

T. H. Bell

Attachment

THE SECRETARY
WASHINGTON, D.C. 20202

SEP 10 1982

The Honorable David A. Stockman
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Stockman:

In accordance with the requirements of the Office of Management and Budget Circular A-50, I am enclosing the Department's comments on the Comptroller General's report entitled "Adverse Opinion on the Financial Statements of the Student Loan Insurance Fund for the Year Ended September 30, 1980" (GAO/AFMD-82-52, July 8, 1982).

Sincerely,

T. H. Bell

Enclosure

Status of Actions Taken by the Department of Education in Response to the Comptroller General's Report Entitled "Adverse Opinion on the Financial Statements of the Student Loan Insurance Fund for the Year Ended September 30, 1980" (GAO/AFMD-82-52, July 8, 1982).

GAO Recommendation No. 1: We recommend that the Secretary of Education delegate all accounting, recordkeeping, and financial statement preparation responsibilities to the Office of Student Financial Assistance.

Department Action: The Department has carefully considered GAO's recommendation that all record-keeping responsibilities for the Student Loan Insurance Fund be delegated to SFA. While we agree that responsibilities for the Fund's transactions need to be clarified and better defined, we believe this can be accomplished without losing the advantages of our centralized general ledger/Treasury reporting system. Accordingly, we disagree with the recommendation and do not intend to delegate all such responsibilities to SFA.

Since responding to the draft report, the Financial Management Service (FMS), in conjunction with SFA, has completed a plan of action (copy attached) which outlines and prioritizes various action steps designed to address specific deficiencies cited in the report. Many of the tasks described in the plan will result in improved document control and clarification of responsibilities for SLIF accounting transactions. Our objective is to substantially upgrade accounting controls in the Student Loan system, with particular emphasis on payment and collection transactions. SFA is responsible for the accuracy and control of the transactions which it originates. Within this context, we are reviewing SFA's staffing requirements for accounting personnel.

At the same time, an effort is underway to address concerns raised in this and other GAO reports pertaining to the interface between Treasury, the centralized general ledger reporting system and the SFA system. Tasks necessary to implement most of these actions are scheduled for completion by March 1983 within the terms of the present system contract . Pending automation, entries to the general ledger are being processed manually by FMS from documents and automated records produced by SFA. Tasks and actions which are shown in the attached plan as "deferred" will be included in future modifications as described in our response to GAO Recommendation No. 3.

We are fully committed to improving the automated systems of the Department as necessary to ensure that our financial accounting and reporting in all areas, including the Student Loan Insurance Fund, are in accordance with acceptable accounting and internal control standards and that long-standing deficiencies such as those cited in this report are corrected.

GAO Recommendation No 2: We recommend that the Secretary of Education direct the Office of Student Financial Assistance to

-- prepare appropriate written accounting procedures,

-- record all cash transactions promptly,

-- analyze the Fund's collection experience and establish allowance for loss rates which are based on this experience,

-- properly train and supervise accounting personnel, and

-- consistently verify manual computations when necessary to ensure the integrity of files and processing.

Department Action: As noted above, the attached plan outlines and prioritizes various steps designed to address specific deficiencies cited in the report. The specific sections which address the above recommendations are as follows:

-- prepare appropriate written accounting procedures, page 2, Item 3.

Written operating procedures describing the accounting interface and document flow between SFA, FMS, and Treasury are to be completed by November 30, 1982. Detailed operating procedures for SFA are to be completed by January 31, 1983.

-- record all cash transactions promptly, page 2, Item 4.

Implementation of summary level design for recording cash transactions promptly is to be completed by March 31, 1983.

-- analyze the Fund's collection experience and establish allowance for loss rates which are based on this experience,

A design document dealing with this problem has been included in the current system contract. Implementation of the design document is currently being considered. Meanwhile, we will analyze the Fund's collection experience using available historical data to the extent possible and develop more realistic rates for the 1982 financial statements and thereafter.

-- properly train and supervise accounting personnel, page 2, Item 3.

Training of SFA and FMS staff will begin in December, 1982, after completion of written operating procedures and will be completed by March 31, 1983.

-- consistently verify manual computations when necessary to ensure the integrity of files and processing.

Manual verification procedures, as necessary, will be included in the written procedures to be developed by January 31, 1983. (This recommendation is not specifically addressed in the plan).

GAO Recommendation No. 3: We recommend that the Secretary of Education direct the Office of Student Financial Assistance to implement life-cycle management activities, which include

-- user needs identification,
-- system design specification,
-- cost justification,
-- acquisition and development planning, and
-- operational evaluation.

Department Action: The Department of Education is fully committed to implementing life-cycle management activities in all aspects of the administrative support system for the Guaranteed Student Loan Program. The present contract for GSL processing expires in April 1984. We are now in the initial stages of the competitive contracting process for a successor contract. A major objective will be to correct all identified deficiencies including those indicated in the attached action plan as "deferred". System modifications under the new contract will be implemented during the third quarter of fiscal year 1984. Timetables for the completion of various steps in the process, with specific emphasis on those milestones established by life-cycle management, will be an integral part of the modification effort.

Meanwhile, we are initiating a total redesign, using life-cycle management concepts, of the administrative support system not only for the Guaranteed Student Loan program but for all Title IV programs. In concert with the Office of Management and Budget, the Department has responded to the President's call for better credit management by establishing a Credit Management Policy Oversight Board. Under the direction of the Board, a Credit Management/Student Financial Assistance Working Group was created to direct the redesign of the administrative support systems for Title IV aid. The inclusion of all financial assistance programs into an integrated system is considered essential to eliminate the potential for fraud, waste, and abuse between, as well as within, the separate Federal student aid programs.

The Working Group is actively involved in the first stage of life-cycle management--user needs identification. Several potential conceptual models are currently being evaluated by the educational community as part of this process. In addition, contractor support has been obtained to assist in the analysis of system design specifications and cost justifications. When a satisfactory, cost-effective model has been determined, the Department will initiate actions to award a competitive contract for general system design. We expect to begin the competitive bidding process in the latter part of fiscal year 1983, dependent upon the development of a consensus among all involved parties in the proposed system model. Timetables and schedules for remaining life-cycle management activities will be established after completion of this first critical step.

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KEYS: * - Deferred

▲ - Period in which manual Interface began and completion period for accounting Interface Procedures and training

■ - Period in which System's Interface will begin

DATE 07 / 16 / 82 FY MULTI - YEAR ADP PROJECT PLAN IMPLEMENTATION PLAN PAGE 1 of 6

PROJECT NO/NAME GSL ENHANCEMENT PLAN - IN RESPONSE TO GAO's AUDIT (920840)

	FY 82				FY 83				FY 84			
	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH
1. GAO's Conclusion: "The two units responsible for maintaining the same accounts use different identification numbers."												
TASK -Manual Interface accomplishing this task, with exception of debit vouchers.	▲											
-Develop and implement System's Identification Number Cross-reference Design Document.						■						
2. GAO's Conclusion: "Information in control accounts not obtained from subsidiary records."												
TASK -Implement system's Summary Level Design Document. (See attached Document for interface description).						■						
-Manual Interface currently accomplishing this task.		▲										

DATE 07 / 16 / 82 FY MULTI - YEAR ADP PROJECT PLAN IMPLEMENTATION PLAN PAGE 2 of 6

PROJECT NO/NAME GSL ENHANCEMENT PLAN - IN RESPONSE TO GAO's AUDIT (920840)

	FY 82				FY 83				FY 84			
	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH
3. GAO's Conclusion: "Essential accounting documents were not controlled between offices."												
TASK -Developed procedure for processing of source documents related to deposits and cancelled checks, etc.		▲										
-Develop and/or revise existing accounting/interface procedures.					▲							
-Provide training to OSFA and FMS staffs members responsible for the GSLP accountability.						▲						
4. GAO's Conclusion: "Cash not recorded when received."												
TASK -Implement Systems' Summary Level Design Document.						■						

DATE 07 / 16 / 82 FY , MULTI - YEAR ADP PROJECT PLAN IMPLEMENTATION PLAN PAGE 3 of 6

PROJECT NO/NAME GSL ENHANCEMENT PLAN - IN RESPONSE TO GAO's AUDIT (920840)

	FY 82				FY 83				FY 84			
	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH
5. GAO's Conclusion: "Interest receipts not recorded in in the proper account."												
TASK -Implement System's Summary Level Design Document.						■						
-Manual Interface currently accomplishing task.		▲										
6. GAO's Conclusion: "Uncollectible checks and some debit memorandums not recorded correctly."												
TASK -Implement System's Summary Level Design Document.						■						
-Manual Interface currently accomplishing task.	▲											
7. GAO's Conclusion: "Some cancelled checks not recorded correctly."												
TASK -Implement System's Summary Level Design Document.						■						
-Manual Interface and reconciliation currently accomplishing task.	▲											

DATE 07 / 16 / 82 FY MULTI - YEAR ADP PROJECT PLAN IMPLEMENTATION PLAN PAGE 4 of 6

PROJECT NO/NAME GSL ENHANCEMENT PLAN - IN RESPONSE TO GAO's AUDIT (920840)

	FY 82				FY 83				FY 84			
	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH
8. GAO's Conclusion: "Insurance premiums receivable mis-stated.												
TASK												
* -Develop system's payment balancing process.												
* -Develop system's reconciliation process.												
-Implement System's Summary Level Design.						■						
-Develop system's collection process to generate accounts receivable reports and delinquency.						■						
* -Develop system's control software to ensure that loans disbursed result in billing to lenders.												
-Manual Interface currently accomplishing recording and reconciliation.	◆											

DATE 07 / 16 / 82 FY MULTI - YEAR ADP PROJECT PLAN IMPLEMENTATION PLAN PAGE 5 of 6

PROJECT NO/NAME GSL ENHANCEMENT PLAN - IN RESPONSE TO GAO's AUDIT (920840)

	FY 82				FY 83				FY 84			
	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH
9. GAO's Conclusion: "Uncollectible accrued interest receivable not written off."												
TASK -Manual Interface currently accomplishing this task.		▲										
-Implement System's Summary Level Design Document.						■						
10. GAO's Conclusion: "Unsupportable rates and inconsistent procedures used in computing allowances for losses on uncollectible accounts."												
TASK -Implement Receivable/Loss Rate Design Document.												

DATE 07 / 16 / 82 FY MULTI - YEAR ADP PROJECT PLAN IMPLEMENTATION PLAN PAGE 6 of 6

PROJECT NO/NAME GSL ENHANCEMENT PLAN - IN RESPONSE TO GAO's AUDIT (920840)

	FY 82				FY 83				FY 84			
	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH	1ST	2ND	3RD	4TH
11. GAO's Conclusion: "Collection fee never removed from loans receivable."												
TASK * -Develop a STATE AGENCY COLLECTION SYSTEM.												
-Manual Interface currently accomplishing this task.			▲									
12. GAO's Conclusion: "Insurance premium revenue is improperly recognized."												
-ED disagrees with conclusion, per GAO report, Appendix 1V.												
13. GAO's Conclusion: "Interest revenue computed using improper procedures."												
TASK -Manual Interface currently accomplishing this task.	▲											
-Implementation System's Summary Level Design Document.						■						

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

SEP 17 1982

TO : Edward Elmendorf, Director
Office of Student Financial Assistance

FROM : Frank Ryan, Acting Director
Organizational Performance Service

SUBJECT: Comptroller General's Report, "Adverse Opinion on the Financial Statements of the Student Loan Insurance Fund for the Fiscal Year Ended September 30, 1980 (GAO/AFMD-82-52, July 8, 1982).

Attached is the Department's response to the subject report which was signed by the Secretary on September 10, 1982.

This Office has responsibility for follow-up on all GAO and internal audit reports on behalf of the Deputy Under Secretary for Management. After reviewing the Department's response, we have idenitified several key action steps which we intend to include in our tracking system. These steps and the proposed target dates are as follows:

Key Action	Target Date
1. Evaluate OSFA's staffing requirements for accounting personnel. (Unassigned)	Open
2. Develop written operating procedures describing the interface and document flow between FMS, OSFA and Treasury. (FMS)	Nov. 30, 1982
3. Develop detailed operating procedures for OSFA accounting operations. (OSFA)	Jan. 31, 1982
4. Train accounting personnel. (FMS and OSFA)	Dec. to Mar. 83
5. Develop RFP for GSL contract that addresses all known accounting related deficiencies. (OSFA)	Open
6. Complete user needs identification and system design specifications and begin competitive bidding process for total system re-design. (OM and OSFA)	4th Qtr 1983

In order that we may report to the DUSM on the status of outstanding GAO recommendations, we would appreciate being advised by December 15, 1982 as to the status of key action steps 3 and 5 for which your Office is responsible. Your report should indicate whether target dates beyond the date of the status report will be met and, if not, the nature of any problems being encountered. Status reports should continue to be submitted quarterly until all corrective actions have been completed.

It is expected that any proposed corrective action not included as a key action will also be implemented. Follow-up on these actions will be included in future follow-up/verification reviews. Status reports on action steps 1, 2, 4, and 6 have been requested from the Office of the Comptroller.

If you have any questions or we can be of assistance, please contact Molly Hockman on 472-7424.

ANSWERS TO QUESTIONS BY SENATOR EDWARD M. KENNEDY

1. Please describe your responsibilities as Deputy Under Secretary for Management, and your role in decision-making within the Department.

ANSWER: As Deputy Under Secretary for Management in the Department of Education, I will be responsible for directing the Department's administrative management support programs including personnel administration, organizational management, labor-management relations, grant and procurement services, facilities and property administration, data processing and management information systems, training and executive development, financial management and salaries and expenses budget administration. The Office of Management currently has approximately 800 employees or about 14% of the total workforce of the Department.

I will serve as principal advisor to the Secretary and Under Secretary on all Departmental administrative matters, and I will represent them on management related issues involving other Federal agencies, such as OMB And GSA and to the Congress. The responsibilities of this job are, of course, delegated by the Secretary and Under Secretary. I will be working closely with them in full support of the policies and objectives of this Administration.

2. What changes in Departmental policy, procedures or structures will you recommend?

ANSWER: I have not yet reached any conclusions on the specific changes I will recommend with respect to policy, procedures, and structures. As you know within a few months after the change in the Administration, Secretary Bell made extensive changes in the organizational structure of the Department, significantly reducing the number of distinct organizational components and layers in the Department of Education. That was a first and important step in streamlining this bureaucracy. As Deputy Under Secretary for Management, I will work closely with the Secretary and other senior officers of the Department in identifying and implementing ways to further reduce redundant management structures and systems throughout the Department so that we can operate in a more effective and responsive manner. As an example, we have begun an in-depth review of each of the regulations under which the Department itself operates to identify ways to cut unnecessary internal red-tape.

3. Do you favor the elimination of the Department of Education? Please explain the reasons for your answer.

ANSWER: I am in full support of this Administration's commitment to reduce the Federal role in American education including eliminating the Department of Education as a Cabinet level agency.

A reduced federal role in Education can be more appropriately administered by an agency of less than Cabinet rank, such as The Foundation for Education Assistance envisioned by Secretary Bell.

The creation of the Department by the Congress in 1979, was accompanied by an intensive debate and was opposed by large segments of the American education community. The present Administration's plan to reudce the agency from Cabinet rank will be debated vigorously and will gain the support of significant segments of American education and a majority of the American public. The American people believe that education must remain a responsibility primarily of the states and local communities and that a federal "Department" of Education is unnecessary and inappropriate. The Administration's plan to abolish the Department of Education is entirely consistent with the traditional role of the Federal government in education and will only enhance our capabilities to fulfill the legitimate mission of the Federal government in education.

4. Some members of Congress have complained about the field readers selected through your Field Reader Outreach Program.

A. What steps will you take to ensure that the most qualified people will be selected to review education grants under this program?

B. What steps will you take to ensure that the qualifications of these reviewers match the criteria and needs of specific programs?

C. In your planning what specific safeguards will you institute to ensure that the process of selecting reviewers is not politicized?

ANSWER: A. The Field Reader Outreach Program was designed to promote the fair and objective evaluation of all proposals by helping to make available new and qualified readers from all regions of the country. Only those individuals who met the criteria established by program officials were hired as field readers. We plan to continue to expand our pool of available reviewers to guarantee an independent, objective review of all proposals submitted to the Department.

B. The qualifications needed by a field reader have traditionally been determined by the program officials. Before any solicitation for new peer reviewers was made during FY 82, each program office was requested to submit the criteria which they have traditionally used to select reviewers. These established criteria were used as the guide by Departmental Senior Officials and the Regional Officers to solicit qualified reviewers from State Education Agencies, colleges, universitites, local school districts, and research organizations. The experiences and qualifications of individuals who responded were matched with these criteria for each program area, and the final selection of reviewers was made by the appropriate program officials.

C. We plan to continue to expand the pool of available, well-qualified reviewers by soliciting resumes from all sectors of the educational community. Political Party registration has not been and will not be used as a factor in selection in any way. Program officials will continue to have final authority over the selection of field readers and the determination of eligibility criteria.

WASHINGTON BUREAU
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
1025 VERMONT AVENUE, N.W. • SUITE 820 • WASHINGTON, D.C. 20005
(202) 638-2269

SEPTEMBER 22, 1982

THE HONORABLE ORRIN G. HATCH
CHAIRMAN,
SENATE LABOR & HUMAN RESOURCES CMTE.
4230 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, D.C. 20510

DEAR SENATOR HATCH:

I AM SUBMITTING A STATEMENT FOR THE RECORD FROM THE NAACP IN OPPOSITION TO THE NOMINATION OF HARRY M. SINGLETON TO THE POSITION OF ASSISTANT SECRETARY OF THE OFFICE OF CIVIL RIGHTS, UNITED STATES DEPARTMENT OF EDUCATION.

YOURS SINCERELY,

ALTHEA T. L. SIMMONS
DIRECTOR

STATEMENT OF ALTHEA T.L. SIMMONS,
DIRECTOR, WASHINGTON BUREAU, NAACP
BEFORE THE SENATE JUDICIARY COMMITTEE,
SEPTEMBER 22, 1982

THE NAACP, THE NATION'S LARGEST AND OLDEST CIVIL RIGHTS ORGANIZATION WITH ITS 1800 BRANCHES AND YOUTH AND COLLEGE UNITS IN EACH OF THE 50 STATES AND THE DISTRICT OF COLUMBIA, OPPOSES THE NOMINATION OF HARRY M. SINGLETON TO THE POSITION OF ASSISTANT SECRETARY OF THE OFFICE OF CIVIL RIGHTS (OCR), U.S. DEPARTMENT OF EDUCATION. MR. SINGLETON HAS NEITHER THE BACKGROUND NOR IT WOULD SEEM THE SENSITIVITY AND COMMITMENT TO ENFORCE THE NATION'S CIVIL RIGHTS LAWS THAT ARE ESSENTIAL FOR EFFECTIVELY PERFORMING THE DUTIES REQUIRED OF AN ASSISTANT SECRETARY FOR CIVIL RIGHTS.

IT APPEARS FROM MR. SINGLETON'S STATEMENTS IN AN INTERVIEW IN THE NATIONAL JOURNAL, 3/14/81, THAT HE WOULD CONTRAVENE THE DETERMINATION OF THE SUPREME COURT THAT RECOGNIZES THE CONSTITUTIONALITY OF GOALS AND TIMETABLES TO INCLUDE MORE MINORITIES AND WOMEN IN OUR NATION'S EDUCATIONAL INSTITUTIONS AND PROGRAMS AND THE DETERMINATION THAT PUPIL TRANSPORTATION MAY BE REQUIRED TO ELIMINATE DISCRIMINATION FROM OUR PRIMARY SCHOOL SYSTEMS.* MR. SINGLETON DOES NOT SUBSCRIBE TO PUPIL

In the Regents of The University of California v. Bakke, a case brought to court under Title VI of the 1964 Civil Rights Act, the court held that the government may take race into account in devising plans to remedy disadvantages which are currently faced by minorities but which are attributable to past racial discrimination. In the Swann v. Charlotte-Mecklenburg Board of Education case, 402U.S.1 (1971), and the North Carolina State Board of Education v. Swann, 402.U.S.43 (1971), the court determined that in order to eliminate unconstitutional segregation from the nation's primary school system, pupil transportation may be required.

TRANSPORTATION WHICH HE FINDS "INCREDIBLY OFFENSIVE." NOR DOES HE SUBSCRIBE TO AFFIRMATIVE ACTION TO REMEDY THE UNCONSTITUTIONAL SEGREGATION WHICH EXISTS IN OUR SCHOOL SYSTEMS. INDEED, THE RECENTLY RELEASED REPORT FROM THE JOINT CENTER FOR POLITICAL STUDIES PREDICTS THAT SEGREGATION IS LIKELY TO INCREASE IN THE NATION'S EDUCATIONAL INSTITUTIONS. MR. SINGLETON HAS GONE ON RECORD AS OPPOSING BOTH THESE REMEDIES WHICH THE SUPREME COURT HAS HELD ARE IN SOME CASES ESSENTIAL TO EITHER EFFICIENTLY EXECUTE THE NATION'S CIVIL RIGHTS LAWS IN EDUCATION OR TO COMPLY WITH THE CONSTITUTIONAL MANDATE.

TO APPOINT SOMEONE WITH THE VIEWS OF MR. SINGLETON TO ENFORCE LAWS FOR WHICH THE MOST EFFECTIVE REMEDIES FOR VIOLATIONS HE OPPOSES IS THE HEIGHT OF FOLLY. IT IS TANTAMOUNT TO APPOINTING THE FOX TO GUARD THE HENHOUSE.

AS THE MEMBERS OF THE COMMITTEE ARE AWARE, TITLE VI AND OTHER SUCH STATUTORY PROVISIONS, ARE NOT SELF ENFORCING. EFFECTIVE ENFORCEMENT OF THESE LAWS NECESSITATES A SECRETARY WHO IS UNEQUIVOCALLY COMMITTED TO VIGOROUSLY PURSUE EACH OF THE MYRIAD AVAILABLE LEGISLATIVE AND JUDICIAL REMEDIES.

IT IS IMPORTANT THAT THE SECRETARY OF THE OFFICE OF CIVIL RIGHTS BE SOMEONE WHO HAS DEMONSTRATED A KEEN UNDERSTANDING OF THE LEGISLATIVE HISTORY OF JUDICIAL INTERPRETATION

OF THE CIVIL RIGHTS LAWS HE OR SHE WILL BE CALLED UPON TO ENFORCE. THIS LAST REQUIREMENT IS PARTICULARLY IMPORTANT GIVEN THE FACT THAT A NUMBER OF REGULATIONS IMPLEMENTING THESE LAWS ARE NOW UNDER REVIEW OR IN THE PROCESS OF REVISION. THE DEPARTMENT OF EDUCATION IS CURRENTLY REVIEWING REGULATIONS GOVERNING TITLE IX (ATHLETICS POLICY INTERPRETATION, 34 CFR106); SECTION 504 OF THE REHABILITATION ACT, AND PRIVACY ACT REGULATIONS RELATIVE TO TITLE VI. ON THIS LATTER MEASURE, THE DEPARTMENT OF EDUCATION PROPOSES TO AMEND ITS REGULATIONS TO PERMIT THE OFFICE OF CIVIL RIGHTS TO WITHHOLD INVESTIGATORY MATERIALS CONTAINED IN THE "COMPLAINT FILES AND LOG" SYSTEM OF RECORDS.

ALL OF THESE REGULATIONS ARE DESIGNED TO INSURE THE ADHERENCE TO THE LAWS THEY ARE DESIGNED TO IMPLEMENT WITHIN THE PROGRAM UNITS OF THE DEPARTMENT OF EDUCATION AND BY RECIPIENTS OF FEDERAL FUNDS FOR EDUCATIONAL PROGRAMS AND ACTIVITIES.

TO GUARANTEE THAT THE PROPOSED CHANGES IN THESE AND OTHER DEPARTMENT OF EDUCATION REGULATIONS WILL NOT JEOPARDIZE CIVIL RIGHTS ENFORCEMENT, THE ASSISTANT SECRETARY OF CIVIL RIGHTS MUST BE WELL VERSED IN THE AREA OF CIVIL RIGHTS. HE OR SHE MUST HAVE WORKED WITH THE LAWS AND MUST HAVE DEMONSTRATED AN UNDERSTANDING OF THOSE LAWS. IT APPEARS THAT MR. SINGLETON HAS NO SUCH FAMILIARITY WITH THE LAWS HE WILL BE CHARGED WITH ENFORCING. THE ONLY CIVIL RIGHTS INVOLVEMENT ON MR. SINGLETON'S PROFESSIONAL RECORD IS SOME MINOR ASSISTANCE HE RENDERED IN GETTING PASSED A 1970 AMENDMENT TO THE CIVIL RIGHTS ACT OF 1871 WHICH EXTENDED TO D.C. RESIDENTS THE RIGHT TO SUE PUBLIC OFFICIALS FOR DENIAL OF CIVIL RIGHTS. MOREVOER, THERE IS NOTHING IN MR. SINGLETON'S PROFESSIONAL RECORD WHICH INDICATES HIS INVOLVEMENT WITH EDUCATIONAL ISSUES.

THEREFORE MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THE NAACP MUST GO ON RECORD AS OPPOSING THE NOMINATION OF HARRY M. SINGLETON TO THIS MOST SENSITIVE ADVOCACY POST.

The CHAIRMAN. With that, I feel personally that I can support each of your nominations. I suspect we will have no difficulty.

My only difficulty has been assembling a quorum during these past couple of weeks in this committee. This has not proven an easy task. However, we will try to get these matters resolved, hold an executive session, and hopefully have you confirmed before the end of this session.

Thank you for coming.

The hearing will adjourn.

[Whereupon, at 10:27 a.m., the committee recessed, to reconvene at the call of the Chair.]

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